Ontario

Report of the Royal Commission on the Status of Pensions in Ontario

VOLUME III

Design for Retirement

1980

Report of the Royal Commission on the Status of Pensions in Ontario

Design for Retirement

Volume I Volume II Volume III	Government programs and employer sponsored pensions
Volume IV	*Your Income in Retirement* (a Consumer's Guide)

Ontario and the Canada Pension Plan

Volume V

Pensions for Ontario Public Sector Employees

Volume VI
Volume VII

Background Studies and Papers

Volume VIII
Volume IX

Summary Report: A Plan for the Future

Available from Ontario Government Book Store
800 Bay Street
Toronto, Ontario

Printed in Canada by the Queen's Printer
ISBN 0-7743-5163-2 (complete set of 10 volumes)
ISBN 0-7743-3823-7 (Volume III)

Design for Retirement

The Royal Commission on the Status of Pensions in Ontario

Chairman
Donna J. Haley, Q.C.

Members
Alfred H. Cordell
Donald G. M. Coxe
Charles McDonald
Walter G. Upshall

Counsel
Marie Corbett

Ontario

Report of the Royal Commission on the Status of Pensions in Ontario

VOLUME III

Design for Retirement

1980

Design for Retirement

Contents

VOLUME III

VOLUME IV

Design for Retirement

Volume III

Contents

Chapter 13

Government Regulation: The Pension Benefits Act

THE ACT AND ITS BACKGROUND

At several points in the foregoing discussion of employment pension plans we have referred to the Pension Benefits Act, the provincial statute under which plans in both private and public sectors are regulated. This act is the logical vehicle for the regulatory changes already proposed, especially in Chapters 8 (vesting, portability) and 9 (funding), but also for those appearing under the appropriate subject headings elsewhere in the report. In the present chapter those somewhat scattered observations will be brought into the context of the act itself, its administration, and other important aspects of pension plan supervision. We shall draw attention to several issues not otherwise examined in detail, including that of how effective the act is at present and what its future role might be in achieving public policy objectives for retirement income.

Briefly stated, the Pension Benefits Act requires registration of all employment pension plans with members in Ontario, including plans operated by the Crown and Crown agencies, municipalities and local boards, and excluding only those plans that are financed entirely by employees.(1) To be accepted for registration a plan must comply with certain criteria relating to vesting of benefits, solvency of the pension fund, investment policy, and disclosure of information. The plan must not only meet the formal requirements of the act, but must be administered accordingly.(2)

From the historical treatment in Chapter 3 it will be recalled that the statute is essentially the same as the Pension Benefits Act of 1962-63(3) except that the original requirements for a mandatory or "standard" plan were repealed in 1964.(4) Thus, although plans were not

required to qualify for registration until January 1, 1965, the legislation had then been in place for some twenty months. The administrative agency, the Pension Commission of Ontario, had been functioning since August 1963; and the initial filing of information returns had been substantially completed by January 1, 1964.(5)

When introducing the revised act in May 1965 the Premier, the Honourable John P. Robarts, reported that steps already had been taken, beginning with the disclosure of Ontario's draft legislation at a conference of provincial premiers in August 1961, towards the development of uniform supervisory laws and co-ordinated administrative machinery at the provincial level. In this way, Ontario's "pioneer legislation" as the Premier described it was viewed as the first step in the direction of "our goal of uniform rules regulating pensions across Canada."(6)

Precisely why the supervision of pension plans should have been seen as an interprovincial and not a federal responsibility has been discussed. The circumstances were summarized by Premier Robarts when the original bill came before the Legislature for final disposition in 1963. He described: "the altered situation in which the provinces of Canada have found themselves because of a decision of the Federal Government four years ago,"

> "The partial regulation of most pension plans by way of income tax rules, a control that the Federal Government had gradually imposed, was slowly relaxed by softening the rules for registration. Finally several of the more important rules were wholly withdrawn. There is of course considerable regulation of pension plans by other branches of government but it is not sufficiently uniform, as between one branch and another, to assure protection of the public interest in all cases. A gap of some importance now exists, therefore, in the law. The constitutional power to fill that gap lies with the provinces."(7)

Clearly it was the need rather than the constitutional authority that had become apparent by about 1959, as a consequence of changes in the exercise of discretionary powers by the Minister of National Revenue. At the same time there was, and had been for some time, public discussion of the need for better and more specific measures to protect the interests of employees in pension plans. Tax rules governing vesting, for instance, at no time had required employers to grant deferred pensions to terminating employees under age 50 or with less than 20 years of service. With this and other areas of regulation effectively vacated by the federal government, Ontario was obliged not only to pick up the reins but to consider every dimension of employment pension plans. While income tax rules are intended primarily to protect the public treasury from excessive revenue losses due to abuse of tax deductibility, any specific pension legislation would have to take into account the complex relationships among individuals, employers, unions and financial institutions; and above all, would necessitate a

careful assessment of the long-term role of employment pensions within an evolving system of social security.

These matters were studied in depth by the Committee on Portable Pensions, appointed in 1960 by the Premier, the Honourable Leslie M. Frost. The committee issued its Summary Report in February, 1961, and its Second Report and a draft bill the following July.(8) By the spring of 1963 the "gap in the law" had been filled in Ontario by the Pension Benefits Act, 1962-63; other provinces would follow; and a mechanism for interprovincial co-ordination of supervision was at least partially operational.(9)

Some evidence of the immediate impact of the legislation is revealed in the Premier's remarks to the Legislature on introducing the revised act in May, 1965. Of more than 8,100 plans filed for registration, 4,359 covering some 553,000 Ontario members had required amendments to improve vesting conditions at least to the new statutory standard (age 45 and 10 years' service). "Many plans" were found to have inadequate funding provisions, including 98 which were completely unfunded ("pay-as-you-go") and 76 which were funded only for retirees ("terminally funded"). No statistics are available to show the magnitude of the changes made for purposes of registration; nor is it possible to estimate the improvement in actual benefit entitlements, many of which would not be realized for many years in any case. The immediate effect was to be seen only in the plans themselves; changes in their structure and financing would enhance the prospect that their members would receive at least some benefit from their periods of participation.

Once the "standard plan" provisions of the original act had been removed, the legislation contained nothing that would oblige an employer to establish a pension plan or maintain a plan in force. Accordingly, it was not designed to deal with the problem of coverage discussed in Chapter 8, or even portability, as we pointed out in the same chapter, except insofar as it preserved accrued rights for that section of the work-force usually regarded as less mobile: the over-45s with ten or more years of service with one employer or within one plan. The act did not interfere, moreover, with the basic structure of employment pension plans: their benefit formulas, level of benefits, or funding methods.(10)

Any evaluation of the Pension Benefits Act must consider these important limitations of purpose - all stemming from the single assumption that employment pensions were voluntary, and as such might not survive or flourish in a climate of excessive regulation. The Pension Benefits Act was designed to provide a framework within which employment pension plans could continue to operate. It must be remembered that the act is only the vehicle for implementing public policy and it should be changed to reflect changes in that policy. Consideration of the Pension Benefits Act and the role of the Pension Commission of Ontario must therefore take into account the recommendations of the Commission for

changes in retirement income delivery, and changes in emphasis since the act became effective in 1965.

The act does not create pension plans. It provides that all pension plans with members in Ontario (except those in which benefits are paid for solely by employees) must be registered. The prerequisites for registration create a minimum standard with which all plans must comply. These prerequisites cover the broad areas of vesting, solvency investment and disclosure. The regulatory powers under the act are enforced through the registration and deregistration power. This concept of regulating a minimum standard for voluntarily established plans, as we shall see, has important implications for the role of the Pension Commission of Ontario.

REQUIREMENTS FOR REGISTRATION UNDER THE ACT

Reporting and Registration Procedure

The employer is required to file for registration any pension plan covering Ontario employees and maintain it as a qualified plan so long as it is in force. An annual information return, including contribution information, is required. In addition to the general provisions of section 18 of the act, the regulation (s. 9) calls for filing of all documents "under which such plan is constituted" including a trust deed, insurance contract, or collective agreement, and amendments to the plan or relevant documents. A valuation report and actuarial cost certificate must be filed every three years, with specified particulars depending in part on whether or not benefits are fully insured, money-purchase, etc.

A plan may be accepted for registration or rejected, or its certificate of registration may be cancelled (see "Enforcement"). Fees, payable on application for registration and with each annual information return are currently \$1.50 per plan member in Ontario, subject to a minimum of \$7.50 and a maximum of \$300. (O. Reg. 654, s. 8).

Vesting, Locking-in

A registered pension plan must provide that pensions for service in Ontario or a designated province after January 1, 1965 or created under the plan after that date are fully vested in an employee who has attained age 45 and has completed at least ten years of service with the employer or (in the case of a multi-employer plan) membership in the plan. Employee contributions toward the cost of the vested benefit are locked in, but a plan may allow commutation of a benefit of less than \$10 per month or up to 25 per cent of the value of the deferred annuity. Regardless of age or service a plan member is not permitted to withdraw contributions (except voluntary additional contributions) while still employed and the plan is in force. (Sec. 21(2),(3),(4)).

Operation of the vesting provisions is examined in detail in Chapter 8, but several related requirements should be mentioned here:

Benefit Formula

Benefits must be credited according to a definite formula and must satisfy the principle of "gradual accrual" (Act, sec. 23; Reg., s. 10). While some variability of benefit credits or employer contributions may be permitted by the commission, it is understood (for example) that a plan in which benefits accrued only after age 45 would be unacceptable.

Value of Locked-in Contributions

In the light of the possibility of "over-purchase" described in Chapter 8 (Locking-in) the act stipulates that the deferred or immediate pension benefit credit must be at least equal to the value of the employee's contributions (sec. 21(11)).

Successor Employer

Continuity of service for vesting purposes is considered unbroken where the employer sells all or part of the business, whether or not the successor employer has a pension plan or assumes responsibility for accrued benefits. Service with the former employer must also be counted towards fulfilling any eligibility conditions of a pension plan operated by the successor (sec. 25a).

Exemption From Vesting

The commission may permit a "bridging supplement" as defined in section 13 of the regulation to be excluded from the vested benefit. This exemption, formerly applied to a variety of supplemental or minimum make-up benefits, is now limited to supplemental payments made until the retiree is eligible for government benefits (OAS, CPP/QPP).

Reduction for Government Benefits

Benefit offsets are not permitted for indexed adjustments in government benefits occurring after termination of employment or retirement. (Reg., s. 22 (10).

Vesting on Plan Termination

Provisions governing plan termination recognize the right of all plan members to the preservation of their accrued credits to the extent the assets of the plan are sufficient, before any funds can revert to the employer. Full vesting under these circumstances regardless of age or service is therefore assumed, although locking-in of employee contributions is enforceable only for those who meet the 45 and 10 conditions. Benefits subject to the vesting rule are treated as having

priority in the allocation of assets, at least to the extent they have been funded. (Act, 21(7), (8), and (9); Reg., s. 11).

If the plan permits a transfer of vested pension credits to another plan or pension vehicle, the recipient trustee or carrier must agree to administer the benefit in accordance with the statutory restrictions on cash withdrawal, assignment and alienation (Reg., s. 16; and 308/78, s. 2). The enabling provision for a central transfer agency (Act, s. 16) has not been implemented.

Solvency

Tests and standards for solvency are set out in the regulation under the general authority of sections 22(1)(a) and 28(d) of the act. In general terms, employers are required to pay into the plan all current service costs and, in addition, certain special payments to amortize initial unfunded liabilities within 15 years and experience deficiencies within 5 years. Employee contributions must be transmitted within the month following the month they are paid by the employee; other costs must be met not later than 120 days after the end of the plan fiscal year (Reg., s. 2).

As discussed more fully in Chapter 9, compliance with the solvency requirements means that a plan is "provisionally funded" - that is, it is considered able to meet its future obligations if it is continued in force. Since a plan may be solvent while not yet fully funded, its assets may be insufficient at a given time to provide for all accrued benefits. For that reason both the act and regulation treat certain funding problems in relation to the possibility of plan termination. For example:

- Recent improvements in past service benefits may have to be cut back to the extent that their funding, which may extend over 15 years, has not been completed. As a corollary, plan funds may not be used to purchase annuities to cover the unfunded portion of such "additional benefits." (Act, s. 21(9); Reg., s. 2(6)).

- An escalated adjustment for retired or terminated members may be excluded from prefunding provided that at least the cost of actual payments is met as a current service cost; but the unfunded portion of an escalated adjustment may be dropped in the event of a winding-up. (Reg., s. 11(7)).

Fundamental to solvency is the requirement that the funds of a pension plan, unless administered by a government, must be administered by individual or corporate trustees, a life insurance company, a pension fund society, or under the Government Annuities Act (Canada). All payments into a plan therefore are segregated from the employer's assets and cannot revert to the employer for any reason without the consent of the commission. (Reg., s. 18).

Annual cost certificates and triennial valuation reports are required. The Commission must be satisfied that a valuation employs assumptions that are appropriate for the plan, and methods "consistent with the sound principles established by precedent or common usage within the actuarial profession." (Reg., s. 4b).

Test Valuations

Of importance in a discussion of solvency is the "test valuation" described in section 4a of the regulation. As the name suggests, this method is available in addition to a regular valuation - not in place of it - and may be used at the discretion of the actuary to determine what portion of any experience deficiency is attributable to an unforeseen escalation of salaries. That portion may then be treated as an initial unfunded liability and amortized over fifteen rather than five years. Conditions prescribed for a test valuation (e.g., maximum 6 per cent interest, no turnover assumption) are an exception to the latitude otherwise given to the actuary's judgment; and the fact that the test is based essentially on winding-up assumptions is an exception to the rule that valuations must be on a going concern basis, accounting for future obligations such as earnings-related benefit increases in final average plans.(12)

Investments

Pension fund investments are regulated under section 14 of the regulation under the general authority of sections 22(1)(b) and 28(c) of the act. Qualitative limits are determined first by reference to the Canadian and British Insurance Companies Act (Canada) and three other federal and provincial statutes governing insurance, loan and trust companies. The effect of these references is to permit investments in government and government-guaranteed loans, corporate bonds, other secured loans, common stocks with an established dividend or earnings record, and certain other income-producing investments.

These general provisions are then modified in quantitative as well as qualitative terms. Real estate and leasehold investments are permitted, subject to certain conditions including an overall limit of 7 per cent of total plan assets at book value. Investments and loans otherwise not permitted (not including real estate or leaseholds) may be made up to 7 per cent of the book value of plan assets (the so-called "basket clause").

A 10 per cent limit is imposed on the value held in securities of a single corporation or person, including the plan sponsor. Loans except for personal residential mortgages are not permitted to persons connected with management of the plan, including personnel of a union representing employees of the plan sponsor. Commissions or similar payments to company, union or fund personnel are expressly prohibited.

Investments: Supervision

In the annual information return the employer is required to certify that: "the plan and the investments thereof have been administered in accordance with the Act and Regulation...." While there is no specific requirement for filing particulars of the investment portfolio or plan transactions, the commission has the power to obtain the necessary information under sec. 9(3) of the regulation.

Disclosure to Employees

Each employee who is eligible or required to become a plan member is entitled under section 23b of the act to: "a written explanation of the terms and conditions of the plan applicable to him or her; a written explanation of the rights and duties of the employee; and such other information as may be prescribed by the regulations" - all within prescribed time limits. Similar information must be provided when the plan is amended. In addition, an employee on termination or retirement must be given a written statement of his or her benefit entitlement.

No other disclosure to employees is required, except that any plan member (or an agent with written authorization) may inspect and make extracts from the plan at the offices of the commission (s. 23c). These statutory provisions are not amplified by the regulation.

ADMINISTRATION OF THE ACT

The Pension Commission of Ontario

Administration of the act is the responsibility of the Pension Commission of Ontario (PCO) which reports to the Legislature through the Minister of Consumer and Commercial Relations. The commission is composed of from five to nine members (currently nine) including a chairman and vice-chairman, appointed by the Lieutenant Governor in Council for terms of one to three years and eligible for reappointment. In practice, all are drawn from outside the public service and serve on a part-time basis, with meetings once or twice a month. Hearings as such are not held by the commission, although groups of commissioners are delegated from time to time to meet with interested parties on specific questions of compliance.

Functions of the commission include the acceptance of pension plans for registration and the rejection or cancellation of registration of plans whose terms or administration do not comply with the act and regulations. Fees are assessed and collected on behalf of the government for registration and annual supervision of plans. In more general terms, the commission has the function of conducting surveys and research programs, and "to promote the establishment, extension and improvement of pension plans throughout Ontario" (Sec. 10). As

discussed below, the PCO is also authorized to enter into agreements and co-ordinating arrangements with other provincial and federal supervisory agencies.

Superintendent and Staff

A Superintendent of Pensions, appointed by the commission, is in charge of day-to-day administration. He has the statutory authority to inspect pension documents in the hands of employers, insurers, trustees or other persons, and to require the furnishing of relevant information in a form acceptable to the commission (Sec. 7). He is assisted by a staff of some twenty persons, including specialists in analysis of pension documents and related financial and actuarial reports.

Administrative Procedures

Operations of the commission and staff are centred around plans, cost certificates, information returns, actuarial valuations and other material required to be filed and examined for compliance with the act and regulations. Certain decisions such as the formal acceptance or rejection of plans for registration are the prerogative of the commission as such. Otherwise, supervisory functions are carried out largely by the staff on the basis of methods and practices previously established by the commission. The commission is concerned chiefly with situations in which new departures in plan design, actuarial methods or investment practice require specific policy direction to clients as well as staff. This process also involves frequent consideration of possible remedial changes in the regulation or the act itself.

Some indication of the overall work load may be obtained from the commission's operating statistics. At March 31, 1979, 7,606 plans covering approximately 1,150,000 members were supervised by the commission, excluding membership and plans supervised on behalf of the commission by other jurisdictions. During the 1978-79 fiscal year, 335 plans covering 27,229 members were registered, and 370 plans covering 8,095 members were terminated.(13)

Operating Costs

Provision is made in Section 11 of the act for financing the commission through moneys appropriated by the Legislature. Fees and other revenues collected by the commission are turned over to the provincial treasury, and are therefore not officially the basis of budgeted expenditures. In recent years, however, it appears that budgetary controls exercised by the government have had much the same effect, so that the commission's operations have become virtually self-supporting. (14)

Accounts of the commission are examined annually by the Provincial Auditor.

Reciprocal Agreements

The commission is authorized, subject to Cabinet approval, to enter into agreements with the authorized representatives of a designated province or the Government of Canada to provide for the reciprocal registration, audit and inspection of pension plans and for the establishment of a Canadian association of pension commissions (Sec. 10(2)(a)).

Reciprocal agreements to date have been made with Quebec, Alberta, Saskatchewan, Nova Scotia, Manitoba and the federal government, all under parallel provisions of their respective statutes. Provinces and territories are "designated" by regulation (s. 20) on the basis that they have legislation in force that is "substantially similar" to the Ontario act.(15) Among the jurisdictions currently designated are the Northwest Territories and Yukon Territory, both of which are covered by the federal Pension Benefits Standards Act. A similar agreement has been entered into with the federal government by Order-in-Council under Section 10(2)(a) of the act.(16)

In general terms the reciprocal agreements authorize a single authority to carry out the supervisory function where a pension plan has members in more than one jurisdiction. Determination of the "major authority" is based on the location of a plurality of plan members, not counting members in non-participating provinces.(17) Each plan is considered to be subject to the prescribed conditions of the law in the "minor" jurisdiction, and the "major" authority is responsible for acting on behalf of the "minor" authority.(18) Since two statutes may differ in some respects although "substantially similar," the administering agency must be informed in detail concerning the legislation of the other authorities. For this purpose there is a continuing exchange of amendments and other material among the superintendents, who also maintain an informal association to facilitate the task of administrative co-ordination.(19)

Canadian Association of Pension Supervisory Authorities

Questions of uniformity in a more general sense, including proposals for legislative changes, are discussed regularly in the Canadian Association of Pension Supervisory Authorities (CAPSA). Ontario's participation is authorized by section 10(2) of the act, and the commission is represented by its chairman. The association meets two or three times a year. As part of its broad mandate to evaluate existing legislation and propose amendments, CAPSA has undertaken on occasion to sponsor public conferences in order to hear the views of interested persons and organizations.

Research and Development

Under its general power "to promote the establishment, extension and improvement of pension plans throughout Ontario" the commission over

the years has initiated a number of amendments to the act and regulation, all with the apparent aim of tightening loopholes and removing anomalies, but within the major terms of the act as revised in 1965. Any studies the commission may have undertaken with a view to recommending significant departures in policy would seem to have been directed primarily towards CAPSA, evidently in an effort to promote uniformity of change among the various jurisdictions.(20) An exception to this general approach was a survey, initiated by the commission in 1972 before CAPSA was constituted, soliciting responses from employers, employee organizations and others, to a suggestion that the vesting rule be changed from 45 and 10 to age 40 and 5 years' service. Results of the survey were not made public, however, and no legislative action along the proposed lines was subsequently taken.

It should be noted that the act does not explicitly require the commission to review the legislation or make recommendations for amendments. That function was assigned in the original act to a representative Advisory Review Committee, appointed at five-year intervals, whose report on possible amendments to the act and regulations were to have been submitted by the Minister to Cabinet and later tabled in the Legislature.(21) With deletion of this provision in the 1965 revision, the review function implicitly passed to the pension commission; but no comparable provision was made for a periodic review of the legislation and tabling of recommendations in the Cabinet and Legislature.

Research conducted by the commission includes active participation in a co-operative statistical program developed in 1969 jointly by Statistics Canada and the several supervisory authorities. The program has produced a central data bank from which statistical reports are generated on a provincial as well as national basis. It is the basis of the biennial report, Pension Plans in Canada, published by Statistics Canada. That publication and numerous special compilations for Ontario are cited frequently in the present report.(22)

Enforcement

Non-compliance with the act and regulations may result in a refusal or cancellation of registration. Provision is made in section 26 for formal reconsideration of a commission decision to refuse or cancel a certificate of registration, and an appeal lies to the Court of Appeal from the commission's decision following such a review.

Operation of a pension plan for which a certificate of registration has been refused or cancelled could lead to prosecution, as could any contravention of the act or regulations, with a fine of from $200 to $10,000. More significantly however, lack of registered status under pension legislation deprives the plan of an essential precondition for registration of the plan for income tax purposes.(23) The potential loss of deductibility for both employer and employee pension contri-

butions no doubt accounts for the fact that enforcement problems under the Pension Benefits Act thus far have been virtually non-existent.

Public Contacts, Complaints

Intervention by the commission on behalf of individuals is not envisaged in the present act except somewhat indirectly, in that the commission has the power to cancel a certificate of registration of any plan that is not being administered according to a contractual provision required by the act or regulations (Sec. 10(1)(c)(iii). Since the information on which such action might be based is not necessarily found in the documents or reports filed by the employer, the superintendent and staff are expected to attend to all inquiries from employees and beneficiaries, and bring to the attention of those responsible any administrative practices which could lead to deregistration of a plan. Currently, employee inquiries are received in considerable volume: some 3,800 telephone calls per year, 200 letters, and upward of 200 inquiries in person. In addition there are numerous contacts with lawyers, union officials and others acting for individuals. As explained by the superintendent, the work involved in responding to a particular inquiry may amount to no more than a straightforward explanation of some provision of the act or of a specific plan; but it may require a substantial amount of investigation and discussion with an employer, administrator, or consultant. While some complaints may be without foundation, all are considered to come within what might be termed the "consumer protection" aspect of the commission's task.(24)

Because of budget constraints, the function of providing public information and assistance is assumed by the staff as an ancillary obligation rather than by a specific individual or division.

THE ROLE OF THE PENSION COMMISSION - PAST AND FUTURE

Public policy as expressed in the Pension Benefits Act is essentially to ensure that pension plans do what they purport to do. Rather than attempt a complete reshaping of employers' pension policies the Legislature in 1965 chose to regulate pension plans on their own ground, accepting the existing variety of plan designs but imposing selected controls in the areas of vesting, solvency, and investments. Apart from requiring that employees be given information about applicable plan provisions, the act avoided the subject of disclosure to members or the public. The practices of "better employers" appeared to be models for most of the legislated standards; but many key features of the "models" - benefit levels, eligibility conditions, spouses' benefits, for example - were not reflected in the act. Funding requirements eliminated terminal and pay-as-you-go funding practices and regularized the treatment of both current and unfunded liabilities; but they left the actuary substantially free to cost liabilities according to any generally accepted combination of methods and assumptions. Plan coverage

as an objective of legislation was effectively dropped with the 1964 amendments, leaving the administrative agency with only a generalized mandate (in section 10) to promote the establishment and extension of pension plans.

In its main thrust the legislation aims to make the pension promise, at whatever level, more meaningful to employees who are members of pension plans. Stronger funding, limitations on the scope of fund investments, and minimum standards for the preservation of individual entitlements all serve to protect the interests of plan members - especially those who attain the 45 and 10 vesting qualification but also those who may expect to become vested in the future. The law also may be seen as bringing a measure of order into the pension "market" and thereby benefiting those who are regulated. By placing a minimum price tag on the pension commitment, the act and regulation serve to prevent certain excesses of innovation in plan design and marketing, and thus protect not only employees but also the interests of employers, insurers, and consultants.

In its operation the act undoubtedly has achieved a number of improvements in pension provisions and practices, and has done so without noticeably disrupting employers' benefit programs or discouraging innovation in pension design. Enforcement problems have been minimal, due in part to the supportive nature of federal income tax rules for pension plans. Vesting and funding requirements, while demonstrably inadequate (as discussed in chapters 8 and 9), have been implemented with considerable care; and a number of important technical changes have been made to close up gaps in the original provisions.

Administrative performance of the commission and staff has not been a target for criticism in submissions to this Commission. We are impressed in fact by the generally high degree of professionalism with which functions assigned to the commission have been carried out, especially in the light of budget and staffing constraints which might well have been reflected in some visible loss of effectiveness. Apart from the more routine supervisory functions, we have evidence that the superintendent and staff have made continuing efforts to give an important additional dimension to the legislation through educational contacts with the public and in particular by assisting pension plan members and others in problems of entitlement within the general purview of the act.

As it stands, the Pension Benefits Act therefore appears to function well in terms of its original purpose. That purpose, however, does not specifically embrace what is known today as "consumer protection." Without wishing to detract from the effective manner in which the act was put in place to fill what amounted to a legislative vacuum, the Commission is of the opinion that the law should be evolving more positively towards meeting the needs of employees, pension plan members, and beneficiaries:

- by incorporating a vesting standard more appropriate to the realities of an increasingly mobile work-force, with the necessary machinery to facilitate transfers of pension credits;

- by ensuring that mandatory vesting accomplishes more than simply locking in employee contributions;

- by imposing specific limits on conditions such as age and service which effectively exclude many workers from participation in pension plans;

- by adopting more explicit rules governing the use of actuarial methods and assumptions for pension funding.

This Commission has arrived at a number of recommendations dealing with operational sections of the act and regulation, calling for improvement within the existing framework of the Pension Benefits Act and the present role of the Pension Commission of Ontario. Our recommendation for a mandatory retirement savings plan (Chapter 12) could affect both the content of the act and the work of the Pension Commission. In part, the consequent changes in the legislation and supervisory responsibilities will create a substantial increase in the quantity of work for the superintendent and staff and, for a time at least, for the Pension Commission itself.

However this Commission does not consider these recommendations go far enough in the present climate of retirement income provision. Instead there must be a move towards the protection of the retirement income (specifically pension) rights of the individual as opposed to the regulation of rights of pension plan members in general and obligations on employers as pension plan sponsors. The Commission sees positive action to this end:

- by requiring the regular disclosure to employees of operating information concerning their pension plans, including particulars of how and to what extent benefits are secured;

- by requiring the protection of plan assets by the regular auditing of both the plan assets and the plan operations;

- by establishing a new role for the Pension Commission of Ontario in protecting the rights of employees and plan members, with the necessary resources and procedures to pursue that role actively through public education and through direct intervention in some circumstances.

It will be recalled that in formulating our recommendations for earlier vesting we distinguished somewhat different steps depending on whether or how soon PURS was adopted. Our recommended changes in the Pension Benefits Act may also be affected by the nature and timing of

that important policy departure. For the most part, however, the need for more effective protection of the rights of individual plan members requires prompt action, whether or not action is also taken to improve pension coverage. This observation leads to the conclusion that there must be no delay in making those changes that are capable of immediate installation. Our recommendations for new disclosure and auditing rules set out below clearly fit into that category. Similarly, recommendations on procedural matters, facilitation of transfers, allocation of employer and employee cost, and better supervisory standards for actuarial valuations and investments - should be considered for implementation on a priority basis.

The following section deals with the specific areas in which changes in principle from the existing Pension Benefits Act are required, and with the new role which the Pension Commission of Ontario will have to adopt in consequence.

Disclosure

In the Foreword to this report (Volume I) the Commission pointed out, as one of the three most essential points in the report, that:

> "Individual planning for retirement income starts with information about the components of that income. Without full and accurate information, no individual can be expected to judge how much should be saved from current consumption or in what way savings should be used to achieve the desired objective at retirement age and afterward. Disclosure of all relevant information therefore is essential, not only for individual arrangements such as RRSPs and annuities, but also for the more complex group plans: employment pensions and the Canada Pension Plan."

Clearly, the present legislative requirements for disclosure fall short of that objective. Employees are assured basic information about the terms of a plan and may inspect the plan at the commission office; and on termination they must be given a written statement of individual entitlement. Except for these minimal rights, employees and plan members may be, and often are, kept entirely in the dark concerning the provision of their own retirement income. In fact, the Pension Benefits Act would not appear to have added anything of significance to the practice, established long before the legislation emerged, whereby the employer willingly distributed information about pension plan benefits but nothing else. In a sense, the act might be seen as confirming the traditional employer position: that only the pension promise as such is of importance to the employees, and the means by which that promise is fulfilled is not their concern.

As observed previously, the individual is not well served by a plan, voluntary or compulsory, which gives him or her insufficient information for intelligent decisions: whether to participate in the

plan; to what extent additional saving is desirable or essential; what options are to be exercised; or how the plan might be improved through collective bargaining. Reliability of one's future retirement income is much too important a question to be left to guesswork; nor can it be assessed by most plan members simply by reading an employer's outline of the plan terms. Neither is it sufficient in the Commission's view that employees be given only the broadest generalizations regarding the sharing of pension costs. Employees are entitled to have both clear explanations and actual figures. They should know the respective amounts contributed by the employer and employees, the funding schedule for benefits that are not currently funded, the way or ways in which funds are invested, and what provisions are made for securing various benefits if the plan is terminated.

In determining the scope and content of disclosure regulations, we must bear in mind that the objective is to give all plan members assurance that the pension promise is capable of being delivered, and thereby to give them a firm basis for intelligent personal decisions. The governing principle must be that no information about an employment pension plan or its operation which is necessary for individual assessment is to be unreasonably withheld from any member of the plan (active, retired, or terminated) or his or her beneficiary, or from any employee who is eligible to join the plan. Practical considerations obviously will impose certain limitations on the frequency, form, and precise content of the items required to be disclosed.

The Commission has studied the disclosure rules of other jurisdictions - notably Quebec, Manitoba, and the United States - in the light of this principle. We have also reviewed suggestions put forward in briefs to the Commission, and those reported in the Consumer Survey. From all available sources it appears that the following classes of information are regarded as essential, but at the same time capable of different methods or degrees of disclosure:

1. individual benefit particulars;

2. employer cost data;

3. evidence of plan solvency;

4. fund investment information (most frequently mentioned by respondents to the Consumer Survey).

This classification permits some distinction to be drawn between <u>routine</u> and <u>occasional</u> disclosure requirements - that is, between those matters whose nature makes it necessary and feasible to ensure that they are reported regularly to <u>all</u> participants, and those which should be made available on the request of a plan member or his or her representative. Precisely how this distinction is to be applied in drafting the necessary regulations will involve an item-by-item consideration of what

is practicable and reasonable to require in various types of plan. In general terms, however, disclosure rules should be provided along the following lines:

Routine disclosure:

a) Annually to each member of the plan: individual member contribution (if any) and benefit data; copy of the employer's pension fund statements (described below) for the current year; name and address of the plan administrator and each financial carrier; and specific directions for obtaining additional information.

b) To each member on termination of employment or membership: a detailed statement of his or her benefit entitlement, including the method of calculation; in the case of a defined benefit plan (if the Commission's recommendations concerning rights on termination are adopted) a statement of employee and employer cost and excess contributions (if any); a concise explanation of all benefit options available to the individual and/or any surviving beneficiary; a summary of fund investments and current rates of return; specific directions for applying for benefits and options; and the name and address of each payor of the person's benefits.

c) In defined benefit plans a statement warning that, in the event of a wind-up of the plan, specific plan improvements which have not yet been paid for may be cut back by the proportion the unpaid special payments bear to the number of years over which the cost of the improvements has been amortized.

d) In multi-employer plans a statement that promised benefits can only be paid to the extent the contributions fund such benefits.

Occasional disclosure:

a) On written request, to any plan member or authorized representative: a copy of the most recent plan information return (Form 2) filed with the Pension Commission; a list of all fund investments showing both book value and market value at the end of the last plan year, together with a statement of the time-weighted rate of return on the fund; a copy of the most recent actuarial valuation report and cost certificate filed with the commission; and a copy of the latest available audit report.

b) On written request, to any plan member or authorized representative: copies of, or a reasonable opportunity to inspect and make extracts from documents not otherwise provided to

members, such as a trust agreement, a contract of insurance or investment management, by-law, collective agreement or other documents under which a plan is constituted.

Finally, it would seem reasonable that the present right of a plan member (or his or her agent authorized in writing) to inspect plan documents at the offices of the commission should be extended to permit inspection of any document filed with the commission for which a right of inspection is provided in paragraph (b).

Auditing

At present the Pension Benefits Act contains no explicit requirement that pension plans be audited; although it might be assumed that the employer's pension records (at least) would be examined routinely in the course of other legally-required audits, and that other relevant records would be audited according to the various laws applicable to trust and insurance companies. In effect, however, the only evidence available to the Pension Commission that all sets of records have been reconciled in any way is provided in the annual information return and cost certificate, and in the triennial valuation report. While these reports are duly certified by those who prepare them, the data on which they are based are not necessarily audited, nor is the actuary responsible for verifying the accuracy of all information supplied by the employer or other agents of the plan.

From a practical standpoint a fully insured plan (group or individual annuities) requires no auditing apart from verification that the contractual payments have been remitted to the insurer. With all benefit payments guaranteed by the insurance company, it can be presumed that the provisions of insurance legislation will safeguard the interests of plan members as well as those of all other beneficiaries of policies underwritten by that company. The same cannot be said, however, of non-insured or partly insured arrangements. In those cases various plan functions are dispersed among two or more entities: the employer, trustees (individual or corporate), an administrator, and sometimes an investment manager. Each is accountable in law or by the terms of a contract for the proper handling of specific functions. The employer alone, however, is ultimately responsible for providing the plan benefits and for observing the requirements of applicable legislation. To the extent that the law does not regulate the affairs of a particular agent (trust company legislation, for instance) the onus is primarily on the employer to institute whatever supervisory controls are required. Exceptions to this general rule are certain public sector pension plans created by specific legislation, all of which require a regular audit, and the Legislative Assembly Retirement Act Fund which is audited routinely as part of the Consolidated Revenue Fund.(25)

For present purposes it is unnecessary to mention the numerous ways in which errors or mismanagement may escape attention in the course of the multitude of transactions that take place between the time an employee first enrols in a pension plan and the date the final pension cheque is received. In even the simplest of pension plans, virtually all transactions are conducted beyond the scrutiny of the members and often beyond the immediate attention of the employer. Investment operations of a pension plan are typically subject to no detailed examination by members of the plan; nor do the members as a rule have access to an independent appraisal of this or any other phase of plan management. Employers are free to have a plan audit performed, either separately or as an extension of the regular company audit, but many do not.

At present, the power of the Pension Commission to require supplementary data concerning a pension plan is defined broadly in Section 9(3) of the regulation, which states that an employer may be required: "to obtain and file such special reports as the Commission requires." It is questionable whether this provision gives the commission the power to demand an audit or to conduct one.

In essence, the question of mandatory audit is not one of principle. The act and regulations do not omit any class of plan information from all reporting requirements, routine or special; nor is there any room for doubt that all material filed with the commission must be accurate and submitted in good faith. What is missing from the present legislation is the requirement we find in corporation legislation that all financial reports must be supported by the certification of an auditor according to a recognized set of accounting standards. This gap in the law should be filled without delay.

We are recommending that the act be amended to require a regular report on the audit of each pension plan, certifed in the same manner as required for corporation financial statements, and covering all aspects of plan operation and fund management.

The audit of a pension plan should embrace two facets:

a plan audit, which should include all contributions into and monies paid out of the plan including the proper application of all plan provisions and authorization for payments;

a fund audit, which should include the physical existence of assets, proper execution of the trustee's function, and compliance with the investment regulations under the Pension Benefits Act.

At the present time there is no requirement for the furnishing of a statement of either the plan or the fund. An actuarial valuation balance sheet (which we have noted in Chapter 9 is not a financial balance sheet) is required as part of the triennial actuarial report. An employer is required in the annual information return to certify

that contributions paid to the plan have been at least equal to those required under the regulation and that the plan and investments have been administered in accordance with the act and regulation.

If an audit procedure is to be required, there must first be an obligation placed on the employer to prepare financial statements. The statements required appear to the Commission to be as follows:

1. Statement of the Financial Continuity of the Pension Fund

   In its simplest form this would require:

   a) opening balance of assets held under the plan provisions;

   b) receipts for the year, showing separately the amounts paid in by plan members, the amounts paid by the employer for normal contributions, and the amounts paid by the employer for special payments, and investment income;

   c) disbursements for the year;

   d) closing balance of assets held under the plan provisions.

2. Statement of the Financial Position of the Pension Fund

   In its simplest form this would require:

   a) closing balance sheet for the fund, including at least a summary of investments by class and showing both their book and market values;

   b) a notation of any unfunded actuarial liabilities as reported by the latest actuarial valuation for the plan and including a statement of the amount of special payments (if any) made since the end of the period of the actuarial valuation.

These statements should be prepared by the employer and approved by the directors of an employer company or the owner or partners of a firm. The statements will serve three functions:

to bring the pension plan to the employer's specific attention;

to provide the statements necessary for disclosure to employees;

to provide the statements on which the audit can be performed.

Frequency of Audits

It is highly desirable that the pension plan audit be performed at the same time as the regular company audit (where one is done), not simply for reasons of convenience but in order to facilitate the reconciliation of pension data with relevant payroll and other information in the employer's possession. We recommend that reports accompanied by the certificate of a chartered accountant be required as follows:

Plan Audit

- At least every three years for all plans including insured plans, and except for multi-employer plans, preferably to coincide with the period of the triennial actuarial evaluation. Multi-employer plans should have a plan audit annually.

Fund Audit

- Annually for all plans; with qualified or limited audits where plan assets are held by an insurance company or a trust company, as discussed below.

While the auditor would be verifying the physical existence of the fund assets annually, the report on the plan audit done every three years would require a certificate of the auditor that the investments over the three-year period complied with the requirements of the Pension Benefits Act. One would expect that the auditor would perform some of the work required for this certificate more often than at the end of three years.

The commission should also be given the specific authority to require audits more frequently, and to order an independent audit of the plan, the fund, or both, should circumstances warrant.

The Commission appreciates the expense involved in compulsory audits. However against this must be remembered the size of the funds, the complexity of the plans, the importance to the individual of what in many cases is his or her largest "asset" in a lifetime, and the risks of poor record-keeping and accounting, fraud, and conversion of monies. It should be noted that this Commission made inquiries of police authorities at federal, provincial, and local levels as to any reported frauds or losses from pension plans and was advised that there were none on record. While past experience has been satisfactory, at least on the surface, in the Commission's view this is not a valid reason for delaying audit requirements. Quebec already requires the annual filing of an audited statement for a pension fund, and the federal Pension Benefits Standards Act requires a similar statement for the pension plan assets at least every three years.

Auditing Standards

Certain basic rules for plan auditing should be set out in the regulations: primarily the filing requirements, the minimum financial data to be reported, and authority for the Pension Commission to require additional information or clarification. Otherwise we would expect professional standards to be applied by the auditor in determining the method of examination. The necessary guidelines for pension auditing should be prepared, we suggest, in a manner acceptable to the Pension Commission. In the event of any undue delay in working out suitable professional guidelines, or if differences in approach between professional bodies (e.g., accountants and actuaries) cannot be reconciled, the Pension Commission should be required to issue and enforce a set of auditing standards.

Qualified or Limited Audits

Audit requirements in general must be directed towards a full and accurate disclosure of plan operations. The scope of the auditor's task may reasonably be reduced, however, to the extent that certain phases of plan operation are adequately covered by audit procedures and reports of a financial institution. Only when those external reports can be related in a reliable way to the particular plan however, should the plan auditor omit any step in his or her detailed examination. Examples are:

<u>Insured or partly insured plan</u>: Where an insurance company underwrites all or some of the plan benefits, the insured portion of the plan may be audited by verifying that premiums have been paid according to the contract with the insurer, and that all monies payable under the plan but not applied under the insurance contract are properly accounted for. Normal auditing requirements will apply to all other monies and transactions, including those relating to a non-insured arrangement with an insurance company (e.g., deposit administration, segregated fund).

<u>Pooled investment funds</u>: Where pension monies are invested in a pooled investment fund operated by a corporate trustee (including insurance companies, mutual funds, etc.) and providing its own audited statements, the plan auditor will be entitled to rely on those statements, but should verify that payments into and from such pooled fund on behalf of the plan have been made in accordance with the terms of the plan and the investment management agreement.

<u>Different investment vehicles</u>: In the case of a plan whose funds are invested through two or more carriers or investment managers, the auditor will be expected to verify that the allocation of monies to the respective investment vehicles has been properly authorized.

Eligible Investments

As noted previously, the present regulation requires the employer to certify annually that plan investments comply with the regulation. Apart from that general declaration and any relevant comments in the triennial valuation report, no portfolio information is normally available to the Pension Commission. Occasions for requesting particulars of fund investments presumably are few - mainly cases of plan termination or instances where valuation assumptions are questioned.

Our auditing proposal should answer the obvious question regarding the adequacy of investment supervision under the present regulation and commission practice. A regular audit will not only confirm that the pension plan is managed according to proper accounting practices, but also will serve as a check on compliance with the investment rules.

Consumer Role

The recommendations in Chapters 8, 9, 11, and 12 are consistent with the consumer approach. The recommendations envisage an expanded role for the Pension Commission of Ontario in the following areas:

Rights on termination of employment - supervision by the Pension Commission of Ontario of the valuation of the accrued pension at the date of termination, including the setting of a range of interest rates for valuation purposes;

Funding - establishment of guidelines by the Pension Commission of Ontario for actuarial assumptions, methods, and valuations, to exercise some external control on the practices of the actuarial profession related to pension plans;

Integration - establishment of criteria which will ensure an equitable integration of employment pension plans with government programs, without denying the right to integration;

PURS - assessment of provisions in employment pension plans to permit opting out of PURS on the assurance that equal benefits are being protected;

Plan termination - intervention by the Pension Commission of Ontario on behalf of plan members where employees' contributions have been deducted but not remitted by the employer to the trustee, and for employer contributions due but not made.

As redefined, the commission's role should put more emphasis on assistance to the individual. As now constituted, the act requires that plans be administered in accordance with the act and regulations (section 10(1)(c)) but otherwise makes no provision for the pension commission to inform and assist individuals in ascertaining and ensuring

their rights under registered pension plans. In practice, as noted previously, the staff of the commission acts on request to investigate individual problems concerning compliance with the act; but these investigations are necessarily informal and, failing an outright violation of the act or regulations, may result in nothing more than advice to the plan member that he or she has possible grounds for civil action against the plan sponsor.

It is the contention of this Commission that the act should be amended to the extent necessary to require the pension commission to intervene where appropriate on behalf of an employee or group of employees, in cases of bankruptcy or insolvency, where their rights would appear to be affected by actions of the employer, trustee, or administrator of which the individual may have no knowledge or opportunity to control; and in other cases where pension entitlements are in dispute. The commission should be given both fact-finding and enforcement powers in respect of all provisions of a pension plan, and not only those provisions subject to express statutory requirements.

As already noted, the existence of an act regulating the way in which benefits are to be credited, the maintenance of solvency and investment policies connotes more than a simple concern with the formal provisions of pension documents and periodic reports. The intent of the act can be fully carried out only if its administration is designed to respond to the problems of the individual plan member. In other words, this Commission is proposing that the Pension Benefits Act be redesigned and administered to a greater extent as consumer legislation, and that its procedures and staff be adjusted as required to carry out the functions of a consumer protection law.

The Commission therefore recommends that the Pension Benefits Act be amended to expand the role of the Pension Commission of Ontario from a regulatory body alone to a body designed to inform and assist individuals in enforcing their rights to pension benefits in employer pension plans, and for that purpose the commission be given power

a) to intervene with the employer on behalf of a plan member or a class of plan members, including active, retired, or terminated members and their beneficiaries, and to take legal proceedings on behalf of such individual or class in the event of the bankruptcy or insolvency of the plan sponsor which adversely affects the pension plan for events prior to the date of such bankruptcy or insolvency,

b) to arbitrate disputes between an employer and an individual employee or class of employees as to entitlements under a pension plan.

With a revised role it will be necessary for the pension commission to adopt new procedures, not only for investigating individual

complaints but for mediating and, where necessary, hearing evidence and argument concerning disputed claims. It is essential that the commission give careful thought to the form of such procedures and that it be given the resources appropriate to what must be regarded as a quasi-judicial role. We anticipate on the basis of past experience that most individual problems will lend themselves to a more informal resolution; but preparation should be made for the occasional exception, which must be handled both fairly and expeditiously.

Central Pension Agency

There are two distinct functions that could be performed by a central pension agency, and it is important that these two functions be distinguished:

- First, it could be empowered to act as a trustee for the purpose (as presently stated in sec. 16) of "receiving, holding and disbursing pension benefit credits under this Act."

- Second, it could operate as a registry for the recording of all pension credits as determined on termination of employment or retirement.

A need for some type of transfer machinery was recognized in Part II of the original act which permitted establishment of a Central Pension Agency; and in section 16 of the present act, referring only to "an agency" but otherwise similar in intent.(26) Evidently because the notion of a central agency was originally associated with the mandatory "standard plan" (dropped from the act in 1964), section 16 has not been implemented. Initially, the frequency of small vested entitlements resulting from application of the 45 and 10 rule may indeed have been too slight to warrant establishment of an agency whose sole function would have been to receive transfers if permitted by employers and requested by employees. It is impossible, of course, to guess how much the demand might have increased as the number of vested terminations increased and as plan wind-ups raised the necessity of arranging for transfers of liabilities and assets from ongoing plans to insurers of deferred benefits. The opposition to such an agency seems to lie in a general dislike for more government intervention; but one should also recognize that such an agency would benefit terminated and retired employees and not the active plan members with whom the employers' interest lies.

In the beginning the Commission's concern lay with the establishment of a government agency to facilitate the operation of PURS. As noted in Chapter 12, permitting an employee to designate a financial intermediary for the investment of contributions presupposes some government regulation to ensure fair investment procedures and fee structures. The Commission therefore envisaged an Ontario government agency which would offer an alternative investment medium to individual participants. The same agency might perform the function of receiving

and allocating contributions under PURS if that function is not carried out through the administrative machinery of the Canada Pension Plan.

The recommendations for improved rights of transfer at the employee's option on termination also create the need for some alternative repository to which the value of accrued benefits can be transferred. Failure to find an acceptable method of calculating the value of pension credits at the time of transfer to or from the central agency has thus far been a deterrent to utilizing section 16 of the act, and therefore an obstacle to the encouragement of genuine portability. With implementation of our recommendations for a uniform approach to the valuation of vested pensions this obstacle will be removed, and it will become possible to facilitate or require transfers of pension credits as the circumstances dictate. It should be stressed that PURS amplifies the need for a government agency; but with expanded transfer rights the need exists and should be met whether or not a mandatory plan is installed.

Once the need for an agency to support transfer rights is established, it would seem reasonable for such a body to assume the second function of a central pension agency. The recording function is important for the protection of the rights of the individual. Perhaps the best statement of how deficiencies in the record-keeping process can result in a loss of rights can be generalized by a paraphrase of part of Brief 394.

> "Two years ago I learned by accident that in 1975 my pension had been transferred to another trust company. When seeking confirmation from my employer it first denied then later admitted that the transfer had indeed taken place. I was never officially informed of this change.
>
> "Neither was I told that subsequent to my departure my employer company went out of existence or that the parent changed its corporate name. Yet, I consider all this information very relevant to my being able to track down my pension when the time comes in 1998. There will undoubtedly be further changes in the years ahead. The head office of the company will likely be relocated. The administration of my pension may easily be moved in the next 20 years or so to yet another financial institution. Will I be notified of such developments?"

The brief went on to suggest that employers should be required to notify all former employees with pension rights of changes such as those which had taken place in his case. In the Commission's opinion this approach would be difficult and not very effective; but the Commission acknowledges there is a very real problem involving in particular the rights to a pension of mobile employees and of all beneficiaries entitled to survivor benefits. Since a central agency of some sort will be required to facilitate any recommended rights on transfer, the Commission also recommends that such an agency assume the record-keeping

function necessary to record future rights under employment pension plans. Employers would be required to submit the necessary data when employees terminate employment or retire; and the agency would provide individual data on request to plan members and former employees. Where necessary, the central agency could supply the information necessary for the Pension Commission to enforce the claim of an individual for payment.

It would be feasible for each province to set up such a registry on its own account. If Ontario's and similar registries in other provinces were to adopt a uniform system of recording and retrieving personal pension data, it would be a relatively simple matter to provide the same services on a national basis under the terms of reciprocal agreements within a period of, say two or three years. Such a system would indeed enhance a type of portability right which is an important need of the mobile employee not only within Ontario but across the country.

REVISION OF THE PENSION BENEFITS ACT

Since the Pension Benefits Act came into force, January 1, 1965, it has been amended a number of times, primarily to support the principles established originally in the act. Quite apart from the new role envisaged by this Commission, it is clear that the time has come for a general review and overhaul of the act. The following areas in particular should be considered. It would seem logical that the Pension Commission itself should undertake the review and report to the Minister with proposals for amendment of both the act and the regulation.

Multi-Employer Plans

Multi-employer plans were described in Chapter 7 and examined in Chapter 8 as a possible method of achieving portability. While such plans are covered by the act - in the sense that they are not excluded - the absence of adequate definitions applicable to multi-employer plans makes for some ambiguities in compliance with the act and regulation. The consequent problems, whether real or potential, can and should be addressed through specific changes in the legislation.

The multi-employer plan is one in which a number of employers contribute to a single plan covering all employees in an area, industry, or occupation - usually under a collective agreement with one or more unions. Management of the plan is by a board of trustees designated by the parties to the agreement, with various functions delegated, as in a single-employer plan, to a professional administrator and one or more investment managers. The multi-employer plan is often regarded as the only practical method of providing employment pensions, with employer participation, for highly mobile workers in such industries as construction, or those in firms employing only a few employees.

Multi-employer plans at present serve to extend employment pension coverage into areas of industry that would not otherwise have easy or economical access to mechanisms for providing retirement income above the level of government plans. In addition they offer a much greater degree of portability than would have been provided if the employers involved had set up separate plans. These obvious advantages are by no means outweighed by certain inherent problems which were discussed in Chapter 7. However, it is important to ensure that the members of multi-employer plans are afforded the same degree of protection the legislation gives to employees in other types of plans. Thus, if it is found that any important provision of the act is not readily enforceable in respect of a multi-employer plan, it follows that a special provision or provisions should be considered.

One basic ambiguity in the Pension Benefits Act seems to give rise to most of the difficulty experienced in applying the Act to multi-employer plans. That is, the act places all responsibility for compliance on the "employer" - but that term as defined in the Act cannot be construed as including a board of trustees in a multi-employer plan. Where an individual employer under such a plan pays the required contributions to the trustees at the appropriate times, it must be conceded from a practical viewpoint that all financial obligations have then been met that might reasonably be required by pension legislation. Apart from that act of compliance the employer would be expected to forward to the trustees certain payroll data (to enable contributions to be verified and service credits recorded) and to co-operate in any auditing procedures. Otherwise, it is clear that the board of trustees has full contractual responsibility for maintaining the plan as qualified for registration. That board, and not the participating employers, are in a position to attend to all questions of solvency, investment policy, disclosure, and the filing of reports with supervisory agencies.

In practice, the Pension Commission looks to the board of trustees for the required reports; in effect, no participating employer is required to account for the plan provisions or its administration. Neither the trustees nor the Pension Commission have any interest, normally, in raising procedural objections so long as the plan in fact complies with the law in every material respect.

It cannot be assumed, however, that problems of enforcement will not arise. If that should occur, it is essential that it be quite clear where the legal responsibility lies for compliance with the terms of the act and regulations. We are therefore recommending that the term "multi-employer plan" be defined in the act, and that responsibility be explicitly assigned to the board of trustees for any actions not properly attributable to the participating employers. Where appropriate - as in sections that are equally applicable to both single and multi-employer plans - the term "plan sponsor" might serve to denote the individual, corporation or group ultimately responsible for and controlling the plan.

Compliance Problems

With a workable definition of multi-employer plans it should be more feasible to provide in the act and regulations for certain special problems of compliance:

Delinquent Employers: If responsibility for plan solvency is assigned expressly to the board of trustees, it will be clear that it is their responsibility to ensure that each participating employer makes contributions as required by the plan. But in any event the board has the onus of maintaining solvency of the plan as required by the regulation. The Pension Commission cannot be expected to function as a collection agency, and any shortfall in plan revenues for whatever reason should be treated in exactly the same way as in a single employer plan. However, a participating employer is not relieved of the obligation under the law as well as the collective agreement to remit contributions as required. If necessary, the legislation should be clarified so that the statutory lien recommended in Chapter 9 will be fully enforceable against any employer in a multi-employer plan.

Actuarial Certification: Our recommendations for a strengthening of the standards for plan solvency apply equally to multi-employer plans. In addition, the requirements dealing with actuarial certification should be administered in such a way that the plan actuary deals explicitly with the ability of the plan to provide the benefits as defined in the plan, and not merely the level of contributions agreed to by the participating employers. By the same token, all necessary steps should be taken - including appropriate wording of the disclosure regulations - to make the members of every multi-employer plan aware that any defined benefits promised in a pension plan can be sustained only so long as the prescribed contributions are sufficient to ensure solvency as provided in the regulations. Where defined benefits at a certain level are being supported by defined contributions, there must be an unequivocal provision for a reduction of benefits if the prescribed standard of solvency cannot otherwise be maintained. The Pension Commission should not hesitate to refuse to register or to invoke the power of deregistration where it is not satisfied that this principle is fully reflected in the terms of a particular plan, in all reports filed with the commission, and in the disclosure of information to participating employers and plan members.

Vesting: Service Qualification: Because of the way in which service is recorded and credited in the typical multi-employer plan, a terminating member in some circumstances may not qualify for statutory vesting despite having had the requisite years of continuous employment. Plan membership in effect is treated as a substitute for continuous service. Since the degree of portability achieved in these plans is generally much more favourable than

would otherwise be possible, it might be assumed that a person's years of membership are a satisfactory equivalent of service. However, the revision of vesting conditions in the act provides an opportunity to re-examine various anomalies in the legislation. In this instance we believe there is a need in principle to ensure that no person who would qualify for vesting on the basis of continuous service is denied a deferred pension on the ground of his or her period of plan membership. This change would not appear to require a statutory amendment, but the Pension Commission should take steps to bring existing practice into line with this recommendation.

Union Pension Plans

Any plan under which the employer is not required to make contributions is not required to be filed or to qualify for registration under the act (Sec. 18(1)). This exclusion does not apply to an employer's supplemental pension plan such as a mechanism for voluntary additional employee contributions. Thus, the type of plan excluded from all supervisory requirements is one for which the employer not only has no financial responsibility but is not the sponsor in any sense. At present only three "employee-pay-all" plans are known to have members in Ontario. All are union plans, established many years ago for members employed in certain trades or crafts in Canada and the United States, and financed entirely through the regular payment of union dues. In recent years it appears that at least some such plans are being progressively supplanted by pensions of a more conventional type, negotiated with employers. Because of the general exclusion of dues-paid plans from the provisions of the Act, no up-to-date information is available to the Pension Commission on the number of Ontario members or the level of benefits provided.

All known plans of this type are subject to a variety of reporting and supervisory measures under U.S. law, and furthermore are controlled entirely by the union membership. As a consequence there seems to be no compelling reason to amend the act at this time to cover such dues-paid plans as now exist and have hitherto been excluded.

The Commission has considered, however, the possibility that new plans of the employee-pay-all type might be devised, and that the circumstances might indicate the need for some or all of the protection afforded by the Pension Benefits Act. As matters now stand, a new plan could function for some time before the Pension Commission had any knowledge of its existence - and then perhaps only through complaints relating to some failure of the plan to fulfil its obligations. If such plans ought to be subject to legislative supervision, it is plainly desirable that the necessary controls be in place before any problems materialize. Accordingly, it is proposed that the act be amended to confine the exclusions referred to in section 18(1) to plans established prior to 1980. Any new plan to which the employer is not required to

contribute would be subject to all the regular reporting and registration provisions. The term "plan sponsor" - as suggested for use in reference to multi-employer plans - might usefully be applied to an organization which establishes and controls the operation of an employee-pay-all pension plan.

Group RRSPs

These arrangements have become increasingly popular of late, reflecting the tax deductibility offered to RRSP contributions. They are in effect an aggregation of individual RRSPs and therefore do not fall within the concept of employee-pay-all plans just discussed. The employer as such is not sponsoring a plan into which a number of employees will make payments but rather is providing a method of collecting and remitting contributions to the plan of each individual. Even if the employer pays part of the contribution from his own funds it will still be a contribution to the plan of an individual; the employer has no way of withdrawing or controlling the contributions once they are made to the plan. The Commission does not therefore see any need to include these plans under the act to protect the benefit rights of the employee. If, however, experience shows that employees require such protection, the definition section of the act should be broadened to include these plans with a view to ensuring that all arrangements designed to deliver retirement benefits will do just that.

Representation of Plan Members

The Commission received many submissions requesting that some representation be given to plan members on the pension committee or board which conducts the affairs of a pension plan. The most strenuous of these submissions came from retired members concerned with obtaining inflation adjustments to their pensions. How far representation should be accorded depends on one's view of a pension - as deferred wages or otherwise. The Commission does not see that to require such representation for retired members would solve their immediate problems. It would only add to administrative requirements. The Commission does believe, however, that some limited representation should be given active members in a contributory plan. The Commission has not gone very far in providing representation because it is of the opinion that such requests come not so much from a desire to administer as from a desire to be informed. If the Commission's disclosure recommendations are implemented the desire for representation may decrease. This then is a matter which should be reassessed after the disclosure changes have been in operation for a reasonable time.

The Commission therefore recommends that the Pension Benefits Act be amended to require for contributory pension plans representation of the active members of the plan on the body directing the affairs of the pension plan, by the election of not less than one plan member to such body with full rights as a member of the board or committee. Election

of such member shall be required under a provision of the plan in a manner acceptable to the Pension Commission of Ontario.

Administration - Trustees

A cardinal principle of the Pension Benefits Act is that a plan registered under the act must be organized and administered in accordance with the act. (Act, sections 19 and 20) The thrust of the act and regulations is to place the onus on the employer who establishes a plan to see that it is so administered. The act contemplates that a plan may be administered by the employer or by some third party; it does not however specify who such a third party may be.

However, administration of the plan (the employer's responsibility) must be distinguished from the administration of the fund. Section 18 of the regulation under the act requires the funds (unless administered by a government) to be administered by an insurance company, a corporate trustee, individual trustees, the Government Annuities Branch or a Pension Fund Society. No monies may be paid to the employer by the trustee without the consent of the Pension Commission.

While the term "pension plan" will include the assets held in a fund as part of the operation of the plan, common parlance often confuses the pension plan and the pension fund. The distinction is not clear in the legislation; for example, section 18(2) of the regulation provides that "no funds shall be paid out of a pension plan to an employer." Section 16 of the regulation authorizes a transfer of a pension benefit credit to "the administrator, insurer or trustee of another pension plan." Revenue Canada guidelines cut across both administrative responsibilities by providing that a plan funded through a trust must have a designated administrator "who is responsible for the overall operation and administration of the plan."

Clearly the question is not one of confusion among terms but rather the effect of such confusion of terminology on the duties of the employer and the trustee of the funds. In practice, an employer will often appoint a plan administrator to act on the employer's behalf. This administrator may also be the trustee of the pension fund. This places the trustee in a difficult situation.

Generally speaking, the trustee's primary duty is towards the beneficiaries of the trust. The trustee must show impartiality towards all the beneficiaries regardless of personal gain. A trustee may employ agents or advisors such as bankers, investment managers, brokers, and lawyers, but by doing so the trustee does not avoid the ultimate responsibility for the trust funds. The plan administrator on the other hand is under an obligation to follow the instructions of the employer in the administration of the plan. It is conceivable that these two functions will involve conflicting duties.

Under ERISA in the United States no separation in function is required but every plan must provide named fiduciaries, usually the trustees, to control and manage the plan. Trustees have exclusive authority to manage the assets unless they are subject to direction by a named fiduciary, or delegate their responsibilities for asset management to an investment manager. Trustees have the general fiduciary duty to act in the sole interest and for the exclusive benefits of participants and beneficiaries, with the care, skill, prudence, and diligence of experienced trustees in similar situations.

The extent of the duty of a trustee was raised by the Trust Companies Association (Brief 361). It distinguished between a custodian trustee, where the trustee merely takes instructions from the plan sponsor or investment manager, and a managing trustee who may be given complete discretionary authority over the investment of the funds. The Association submits that this distinction should be made in the Pension Benefits Act so that trustees who are in a custodian capacity only do not have as great a responsibility as other trustees, and that the meaning of "administered" be clarified. The Association submits that a custodian trustee should not be responsible for an investment manager's decisions.

The Commission recommends that the act be amended to state clearly the distinction between the person responsible for the operation of the plan, the person responsible for the operation of the fund, and, in the latter case, the extent of the obligation of that person for investment management of the fund.

The Commission makes no specific recommendations as to the division of responsibility to be placed on the employer, the board of trustees in a multi-employer plan or on the trustee for management of the pension fund. If public support continues to move towards the treatment of pensions as deferred wages there may be a reassessment of the onus now placed solely on the employer, and a separation of the obligation of the trustee for the custody of the funds and investment management. It will be recalled that the Ontario Public Service Employees Union (OPSEU - Brief 208) in calling for a concept of "redirected wages" which entitled employees to direct the investment of the pension funds was not prepared to release the employer from the guarantee of the pension benefit itself. The whole area of administrative responsibility requires special consideration from the Pension Commission of Ontario in its review of the act.

Situs of Plan Assets

The Commission is satisfied that the investment rules for pension assets are both broad enough to allow a range of investment choices and restrictive enough to protect against large losses. The assets must be segregated from the assets of the employer and may not be invested in the employer's business. However there are apparently no restrictions

on the situs or place in which the plan assets may be held. This could be important in a plant closing where the parent company, and often pension plan control, is located outside Canada. There are no provisions for pension plans similar to those for foreign insurers who must provide reserves located in Canada to cover obligations to insureds in Canada.

While, theoretically, assets held in foreign countries may be pursued through the law, the enforcement of rights in practice may be futile, particularly where the vested rights of an individual are sought to be enforced by an individual.

As was pointed out by Norman A. Endicott (Brief 217):

> "As a practical matter individual employees or groups of employees in Ontario cannot use the courts of Ohio to enforce their rights, and I doubt if the Province of Ontario would have much more success.
>
> "It is respectfully submitted that short of the Provincial Government directly controlling pension funds and pension agreements as it does, for example, in health matters or indirectly in guaranteeing the supply of electricity, all such funds should be in Ontario and subject to monitoring and enforcement by the Ontario Courts."

The Commission recommends that the extent of this potential problem be assessed by the Pension Commission of Ontario and, if found necessary, amendments to the regulations be made.

Human Rights Legislation

The extent to which human rights legislation affects employment pension plans is now set out in Part X of the Employment Standards Act. Enforcement of the legislation under that act is by a complaints procedure. While it might be possible to enforce human rights legislation by refusing registration of a plan which fails to comply, in this Commission's opinion it is not necessary for the PCO to undertake a further enforcement obligation. Except for the submissions on mandatory retirement ages and unisex tables, both of which concern issues now exempted by the Employment Standards Act, none of the briefs and none of the testimony at the hearings raised any issue of discrimination in an employment pension plan on the basis of age, sex, or marital status. It would appear that the existing complaint procedure is sufficient for the protection of pension plan members.

Garnishment of Pension Benefits

Historically pension benefits have been protected against assignment or seizure for the satisfaction of claims established against the

pension plan member. The principle is embodied in sections 21 and 24 of the Pension Benefits Act. Similar protection is afforded for Canada Pension Plan benefits. However, section 24 of the Ontario act was amended in 1978 to make an exception in the case of support orders under the Family Law Reform Act, 1978.

Although pension benefits paid to the pensioner are subject to seizure in the pensioner's hands the protection is important while pension benefits are accruing to protect the pension fund and the rights of other plan members. It is more than an administrative problem, particularly in defined benefit plans.

The Commission therefore recommends that the principle that pension benefits are not assignable or subject to seizure continue without further exceptions. The concept of accruing pension benefits as family assets is discussed in detail in Chapter 16 of this volume.

Options

The design of the Pension Benefits Act was to provide a framework for the regulation of pension plans voluntarily established. It has resulted in a minimum standard. It also gave the employer choices in the design of the minimum. Thus the words of the act introduces options for employees by prefacing provisions with the words, "if the pension plan so provides."

Examples of this design are to be found in section 21 of the act, subsections (3),(4),(5), and (6) dealing with vesting and locking-in earlier than in the statutory rule, commutation of benefits and alternative settlements. The same principle is implicit in section 16(1) of the regulation which permits transfer of a pension benefit credit to a locked-in RRSP. The regulation is interpreted by the Pension Commission of Ontario to permit such a transfer if the pension plan so provides; the right is controlled by the plan sponsor - not the employee.

This Commission's recommendations for increasing rights of transfer and curtailing rights of commutation in Chapter 11 remove any question of plan options in these areas. For the remainder, the Commission believes there is no need for some employees to have rights "if the pension plan so provides" and others to have none, in areas where the inclusion or exclusion of the right involves no cost to the employer. The Commission recommends that in a review of the act consideration be given to eliminating this approach to options in setting a minimum standard.

Development and Review

This Commission has had occasion to question the apparent lack of attention, over some fifteen years, to the need for major changes in what admittedly was "pioneer" legislation. From the history of the

special committee and the legislation for which it was primarily responsible, it is clear that the realities of labour mobility in Ontario were known or anticipated in the early 1960s, and also that the inequities often caused by locked-in employee contributions were recognized. Many if not most of the reasons for better disclosure and for an "ombudsman" for plan members were familiar to those who drafted the legislation. It is a matter of some concern therefore that no amendments in any of these basic areas have been forthcoming; and that there has been no serious review of the act in the Legislature, although some complaints from plan members have been aired from time to time.

There is at least a strong inference that responsibility for initiating major amendments has, in effect, fallen between two stools: the Cabinet, which may have relied on the pension commission to recommend necessary changes; and the pension commission, which was not assigned the review function after the provision for a committee was dropped from the act in 1965. Under the circumstances it might be said that neither the Cabinet nor the pension commission can be held accountable for not proposing amendments along any of the lines indicated. Obviously, the Legislature had it within its power to require such a comprehensive review; but in any case no review was undertaken until the present commission was constituted.

It would be unproductive to pursue this historical problem further, except to recall the solution adopted by the Legislature in 1963. Under the original act a separate review body was to have been appointed in 1970 and every five years thereafter,

> "to advise and assist the Minister by reporting to him its recommendations for amendments to this Act and to the regulations."

The Minister was obliged to submit the review report to the Lieutenant-Governor in Council, and thereafter table it in the Legislature.

In deleting the provision for a five-year review, the Legislature presumably felt that the pension commission - by that time appointed and in operation - could perform the review function as competently as could an ad hoc committee. It may even have preferred to see that function performed on a continuing basis rather than intermittently. Nevertheless, the review function was not made an explicit duty of the commission; and the Minister's obligation to report any recommendations to the Cabinet and Legislature was explicitly repealed. In this connection it might be noted that the outcome of the commission's 1972 survey (the "Green Paper" proposing a new vesting rule) was never made known to the Legislature or the public.

Our solution, briefly and simply, is that the review function as provided in the original act be reinstated in its entirety, except that this function should be expressly assigned to the Pension Commission of Ontario. The commission should be free, as it always has been, to make

recommendations to the Minister for amendments to the act or regulations; but a formal report in the nature of a full review should be required at least every five years, and the Minister should be required to table the report in the Legislature.

A separate review by an ad hoc group is unnecessary, in the view of this Commission, so long as the pension commission is a part-time body, reasonably representative of informed opinion outside the government and Legislature. Periodic reviews of the legislation apart from the statutory review could and probably should be conducted by a standing or special committee of the Legislature; but a formal review by the commission would provide a valuable starting point for any further examination of the act and its operation.

The recommendations of this Commission touch upon nearly all aspects of retirement income provision. Employment pensions are an important part of this provision. Their regulation, though limited, is extremely complex; and this Commission would hope that the development and review function of the Pension Commission of Ontario might start with an assignment to review the Pension Benefits Act and provide recommendations to the Minister for amendment of the act in keeping with policy based on this Commission's recommendations. The expertise embodied in the Pension Commission should prove invaluable for this purpose. There is also a strong link through the Pension Commission with the regulatory authorities of other jurisdictions. This link, if maintained and amplified by a similar link among ministers responsible for pension legislation in the other jurisdictions in Canada would be a strong factor in the preservation and extension of uniformity of pension benefits legislation. The need for uniformity is discussed in Chapter 18.

CONCLUSION AND RECOMMENDATIONS

Regulation of employment pension plans under the Pension Benefits Act and the Pension Commission of Ontario has been practical and efficient, and generally designed to encourage the development of secure pension benefits for those whose employers have seen fit to provide them. The coverage problem is not one which amendment to the present design can accomplish. However it is time for review of the Pension Benefits Act, regardless of the adoption of a mandatory retirement savings plan.

This Commission sees a new role for the Pension Commission of Ontario. A new emphasis on the rights of the individual plan member, supported by a new consumer role for the pension commission will mean a pressing need to ensure that the legislation is adequately explained to the public and that individual inquiries and complaints are handled effectively and fairly. This burden must of necessity fall on the pension commission. Changes in work load and operating methods obviously will

require additional staff, and it will be necessary to strengthen the capability of administrative personnel in the skills of investigation, mediation, and public relations. Since most if not all of the required aptitudes appear to be represented in the present staff, it should be possible to make an early start on designing new procedures and recruiting and training additional personnel.

The Commission's recommendations which will require these changes are as follows:

General

That the Pension Benefits Act be amended and the role of the Pension Commission of Ontario be expanded to provide more effective protection of the rights of individual pension plan members.

Disclosure

That the Pension Benefits Act and its regulations be amended to provide disclosure of information based on the principle that no information about an employment pension plan or its operation which is necessary for individual assessment is to be unreasonably withheld from any member of the plan, active, retired or terminated, or his or her beneficiary, or from any employee who is eligible to join the plan.

That information based on the principle for disclosure enunciated in the preceding recommendation encompass the following:

Routine disclosure:

a) Annually to each member of the plan: individual member contribution (if any) and benefit data; copy of the employer's pension fund statements for the current year; name and address of the plan administrator and each financial carrier; and specific directions for obtaining additional information.

b) To each member on termination of employment or membership: a detailed statement of his or her benefit entitlement, including the method of calculation; in the case of a defined benefit plan (if the Commission's recommendations concerning rights on termination are adopted) a statement of employee and employer cost and excess contributions (if any); a concise explanation of all benefit options available to the individual and/or any surviving beneficiary; a summary of fund investments and current rates of return; specific directions for applying for

benefits and options; and the name and address of each payor of the person's benefits.

c) In defined benefit plans, a statement warning that in the event of a wind-up of the plan, specific plan improvements which have not yet been paid for may be cut back by the proportion that the unpaid special payments bear to the number of years over which the cost of the improvements has been amortized.

d) In multi-employer plans a statement that promised benefits can only be paid to the extent the contributions fund such benefits.

Occasional disclosure:

a) On written request, to any plan member or authorized representative: a copy of the most recent plan information return (Form 2) filed with the Pension Commission; a list of all fund investments showing both book value and market value at the end of the last plan year, together with a statement of the time-weighted rate of return on the fund; a copy of the most recent actuarial valuation report and cost certificate filed with the commission; and a copy of the latest available audit report.

b) On written request, to any plan member or authorized representative: copies of, or a reasonable opportunity to inspect and make extracts from, documents not otherwise provided to members, such as a trust agreement, a contract of insurance or investment management, by-law, collective agreement or other documents under which a plan is constituted.

Right to Inspect

a) To any plan member, or his or her agent authorized in writing, the right to inspect at the offices of the Pension Commission of Ontario the plan document or documents and any other document or report concerning the operation of the pension plan filed with the pension commission and to which the disclosure requirements apply.

Audit

That the Pension Benefits Act and its regulations be amended to require audit of both the pension plan and the pension fund with an audit report certified by a chartered accountant to be filed with the Pension Commission of Ontario as follows:

a) for multi-employer plans, an audit report on the pension plan shall be filed annually;

b) for all other employment pension plans, an audit report on the pension plan shall be filed at least every three years and coincide with the period of the triennial actuarial evaluation;

c) for all employment pension plans, except where assets are held by an insurance company or trust company and a certificate as to the existence of assets is given by the auditors of such company, an audit report on the pension fund shall be filed annually.

That the Pension Benefits Act and its regulations be amended to give the Pension Commission of Ontario specific authority to require audits of both plan and fund more frequently and to order an independent audit of the plan and the fund if in the opinion of the Commission such audit is warranted for the protection of plan members.

Consumer Role

That the Pension Benefits Act be amended to expand the role of the Pension Commission of Ontario from a regulatory body alone to a body designed to inform and assist individuals in enforcing their rights to pension benefits in employment pension plans, and for that purpose the commission be given power

a) to intervene with the employer on behalf of a plan member or a class of plan members, including active, retired, or terminated members and their beneficiaries, and to take legal proceedings on behalf of such individual or class in the event of the bankruptcy or insolvency of the plan sponsor which adversely affects the pension plan for events prior to the date of such bankruptcy or insolvency;

b) to arbitrate disputes between an employer and an individual employee or class of employees as to entitlements under a pension plan.

Central Pension Agency

That a central pension agency be created by the Government of Ontario to fulfil the following functions:

a) to be an alternative investment medium to receive, hold, and invest monies as required for the recommended mandatory retirement savings plan (PURS);

b) to receive, hold, and invest pension monies arising from the exercise of recommended transfer rights on termination of employment;

c) to record future pension rights under employment pension plans for all terminated employees; to receive such data from employers; and to provide such data to plan members;

d) to co-operate with other jurisdictions in establishing a system to provide information on pension rights on a national basis.

Review of Legislation

That the Pension Commission of Ontario be requested to undertake a review of the Pension Benefits Act and report to the Minister with proposals for amendment of both the Act and the regulations, including those changes recommended by this Commission.

That the Pension Benefits Act be amended by requiring the Pension Commission of Ontario to make a periodic review of the act and regulations and submit its report on recommended amendments to the Minister at least every five years, with the further requirement that its report be tabled in the Legislature.

Multi-Employer Plans

That the Pension Benefits Act be amended to bring within the ambit of the act by separate definition: multi-employer plans, union sponsored pension plans and any type of employee-pay-all plan which provides a pension benefit.

That the Pension Benefits Act be amended to place upon the board of trustees of a multi-employer plan the responsibilities normally placed on the employer in a single employer plan, where these responsibilities are not properly attributable to participating employers.

That the Pension Commission of Ontario take steps to ensure that service requirements for entitlements under multi-employer plans are not linked to plan membership in such a way as to deprive an individual of service-based benefits.

Representation of Plan Members

That the Pension Benefits Act be amended to require, for contributory pension plans, representation of the active members of the plan on the body directing the affairs of the pension plan, by the election of not less than one plan member to such body with full rights as a member of the board or committee. Election of such member shall be required under a provision of the plan in a manner acceptable to the Pension Commission of Ontario.

Trustee Obligations

That the Pension Benefits Act be amended to state clearly the distinction between the person responsible for the operation of the plan, the person responsible for the operation of the fund and in the latter case the extent of the obligation of that person for investment management of the fund.

Situs of Plan Assets

That the Pension Commission of Ontario assess the extent of the potential problems arising from the absence of regulation of the situs of pension plan assets, and, if found necessary, make recommendations for amendment to the act or regulation.

Garnishment of Pension Benefits

That the principle that pension benefits are not assignable or subject to seizure continue without further exceptions.

Administration: Financing and Staffing

That the necessary monies be allocated to permit the Pension Commission of Ontario to carry out effectively its additional obligations contemplated by the recommendations for an expanded role for the commission.

Effective Date of Proposed Legislation

That legislation implementing recommended changes be effective at a time not later than three years after the legislation has received Royal assent.

Funding of Liabilities Created by Amendments

That all additional liabilities created by the legislative amendments in any pension plan, subject to the approval of the Pension Commission of Ontario as to the amount of such additional liabilities, be amortized over 15 years and be treated in the same manner as initial unfunded liabilities under the act.

NOTES

(1) This statutory exclusion appears in sec. 18(1) of the act. Exclusions by regulation are provided for in sec. 28(f); two such exclusions have been made, both of a minor nature; see O. Reg. 654, ss. 15, 21.

(2) The Pension Benefits Act, R.S.O. 1970, ch. 342, ss. 1, 19, 21.

(3) The Pension Benefits Act, 1962-63, S.O. 1962-63, ch. 103.

(4) Pension Benefits Amendment Act, S.O. 1963-64, ch. 88.

(5) The original deadlines - January 1, 1964 for plan information, January 1, 1965 for application for registration - remained unchanged from the 1962-63 act.

(6) Statement in the Ontario Legislature, May 21, 1965.

(7) Statement in the Ontario Legislature, March 19, 1963.

(8) A Summary Report of the Ontario Committee on Portable Pensions, February 1961; - Second Report, July 1961; Draft bill, An Act to provide for the Extension, Improvement and Solvency of Pension Plans and the Portability of Pension Benefits, August 1961.

(9) In his statement to the Legislature, May 21, 1965, the Premier reported that understandings had been reached with representatives of other provinces; that Quebec had indicated a "favourable position"; and that the federal Minister of Finance was awaiting only "a wide measure of agreement by the provinces" before introducing legislation similar to Ontario's for employees under federal jurisdiction.

(10) Acceptance of conventional differences in plan structure extended to the adoption of a minimum benefit level (in the standard plan, later repealed) expressed in three ways to facilitate its accommodation within existing plans: money-purchase, career average, and flat benefit. The three formulas were presumed to be approximately equivalent, based on a single life annuity at age 70 and service from January 1, 1965. No final average equivalent was mentioned.

(11) Other aspects of integration with government plans are examined in Chapter 11.

(12) A test valuation is significant only where benefits are based on final or final average earnings, and accrued benefits therefore increase in value automatically as earnings increase. If salary levels rise more rapidly than the actuary has assumed, the next valuation may reveal an experience deficiency as a result of that factor alone. Other types of plans (flat benefit, career average) may provide for comparable increases in prior service benefits by means of plan amendments, in which case the additional cost is treated as an initial unfunded liability, with 15 years allowed for amortization as opposed to 5 years for an experience deficiency.

(13) Pension Commission of Ontario, Fifteenth Annual Report, for the Fiscal Year Ending 31 March, 1979.

(14) Ibid. Fees received in the 1978-79 fiscal year amounted to $561,214; cost of operations was $481,103.

(15) "Designated province" is defined in s. 1(1)(b) to include a territory.

(16) The Northwest Territories and Yukon Territory are designated in O. Reg. 654, s. 20. The agreement with the federal government also covers plans elsewhere under federal jurisdiction. (Ontario O.C. 2693/68, June 27, 1968; and Canada P.C. 1968-11-1487, July 31, 1968).

(17) The terminology used here is self-explanatory except that "non-participating" may refer to a province that is covered by the agreement but has exercised its option to be exempted under terms of the reciprocal agreement, either in respect of a particular pension plan or in respect of all plans for which it would otherwise act as the major authority.

(18) Section 2 of the current interprovincial agreement provides that: "The major authority for each plan shall exercise both its own statutory functions and powers and the statutory functions and powers of each minor authority for such plan." Provision is made in the Ontario regulation (sections 2(10) and 14(12)) to facilitate supervision where a plan is subject to two or more technically incompatible requirements relating to funding or investments.

(19) Although informal in structure, the association of superintendents has been designated a sub-committee of CAPSA.

(20) The Fifteenth Annual Report of the Commission notes that: "The Pension Commission of Ontario continues to support CAPSA in its endeavours and continues to put before CAPSA any recommendation concerning a proposed policy or statute change for examination and comment. Similarly, the Commission will examine and comment upon any policy or statute change being considered by any other jurisdiction."

(21) Pension Benefits Act, 1962-63, s. 11(2) and (3). According to an explanatory note appended to Bill 110 at the committee stage, the provision for an advisory review committee would "permit the appointment of qualified representatives of interested groups, such as labour and industry, to advise the Minister with respect to the administration of the Act and with respect to recommended amendments."

(22) Statistics Canada, Pension Plans in Canada, 1978 (and previous issues), Cat. 74-401; and Statistics Canada, "Pension Plans in Ontario, 1978" (unpublished).

(23) Revenue Canada, Information Circular 72-13R6 sets out registration requirements for pension plans under section 248(1) of the Income Tax Act, including the stipulation in paragraph 14(b) that evidence of registration under any applicable supervisory legislation must be filed with an application for tax-exempt status of the plan. Registration under the Income Tax Act "will not be effected until the above-mentioned evidence of registration is submitted."

(24) J. Wells Bentley, Superintendent of Pensions, testimony before the Commission, June 7, 1978, pp. 102, 103.

(25) Marie Corbett, "Auditing Requirements" - unpublished memorandum prepared for the Royal Commission on the Status of Pensions in Ontario, August, 1978.

(26) S.O. 1962-63, ch. 103, Part II, s. 13; R.S.O. 1970, ch. 342, s. 16.

Chapter 14

Government Regulation: Taxation

In the preceding chapter, regulation by direct legislation for employment pension plans was reviewed. Regulation of employment pension plans and other retirement income vehicles is also effected through the income tax system. It is therefore impossible to deal adequately with the subject of retirement income without considering the impact of the relevant provisions of income tax legislation. The Income Tax Act contains a complete code regulating all aspects of two important retirement income vehicles, the Deferred Profit Sharing Plan (DPSP) and the Registered Retirement Savings Plan (RRSP). Although no provision is made in the income tax legislation itself for the regulation of registered pension plans, a detailed set of guidelines has developed at the administrative level. The Minister of National Revenue will refuse to register a pension plan if it does not comply with the rules set out in information circulars published by the department.(1) Without registration, the substantial tax advantages accruing to sponsors and members of registered pension plans are not available. The regulatory provisions govern many aspects of plan design, including funding, investment of plan funds, and payment of benefits. In addition, individuals and employers designing retirement income vehicles must take into account a multitude of provisions in the Income Tax Act relating to the taxation of pension income, including the special provisions dealing with retiring allowances, termination payments, disability benefits, and death benefits.

In this chapter we will deal with the provisions relating to registered pension plans, Registered Retirement Savings Plans, and Deferred Profit Sharing Plans. In the interests of readability and brevity, we will avoid the use of statutory language when possible and the discussion of insignificant exceptions to general statutory rules. In adopting this approach, we have been forced to over-generalize with the result that minor inaccuracies may arise if the text is applied to special cases. The Commission is indebted to Wayne G. Beach, a Toronto

tax lawyer, for the preparation of that part of the text which deals specifically with the current provisions of the Income Tax Act.

TAX DEFERRAL PLANS

For many years prior to adoption of provincial and federal legislation dealing specifically with the regulation of employment pension plans, federal government policy encouraged the development of these plans. The encouragement was extended through the allowance of reasonable deductions for contributions as a business expense for employers and as a personal deduction for employees. Gradually there developed administrative regulations to determine whether deductions would be permitted. These regulations in turn extended to various features of plans. When pension benefits legislation was passed in the early 'sixties, it was this legislation that visibly controlled plan design. However, the Income Tax Act remains as a powerful "éminence grise" working in the background with the pension regulatory authorities.

Occasionally the goals of tax policy and pension benefit policy will be at odds. For example, in setting actuarial assumptions, we find that tax guidelines prevent the adoption of salary scales exceeding the assumed interest rate, in order to limit funding and hence deductible expense for employers; while pension benefit policy for its part would welcome more realistic salary scales to improve the funded position of the plan. Changes in pension benefits legislation must therefore be in concert with tax policy to the extent they impinge on the matter of tax deductibility.

Registered Retirement Savings Plans and Deferred Profit Sharing Plans, unlike employment pension plans, are distinct creatures of income tax policy. They represent, at least in part, encouragement of savings for retirement by tax deferral. Registered Retirement Savings Plans were introduced in 1957.(2) Profit sharing plans were dealt with in the income tax legislation through the 1950s, but it was only in 1960 that Deferred Profit Sharing Plans as they now exist were created.(3)

We will describe the rules relating to each of the three tax deferral plans and will analyze the tax treatment of the plans, comparing their salient features.

REGISTERED PENSION PLANS

The provisions of the Income Tax Act relating to the taxation of registered pension plans are basically similar to those relating to RRSPs and DPSPs. A tax deduction is provided for contributions to a fund, the income from the fund is sheltered from tax, and payments from the fund in the form of pensions are subject to tax in the recipient's hands. Whereas RRSPs and DPSPs are designed to provide a retirement

income for the self-employed or employees of smaller firms, the registered pension plan is designed to suit the needs of employees of larger firms. Although it is not uncommon for plans to provide for only employer contributions, the legislation contemplates contributions to the fund by both employer and employee.

No detailed code governing the operation of registered pension plans is set out in the Income Tax Act itself. However, Revenue Canada has set out a detailed set of guidelines, which must be met in order for a plan to become registered and retain its registered status. Without registration, a plan does not qualify for the tax advantages provided in the Income Tax Act. By this means, Revenue Canada exercises as much control over pension plans as it does over RRSPs and DPSPs.

Formal Requirements

A "registered pension fund or plan" is defined in section 248 of the Income Tax Act as "an employees' superannuation or pension fund or plan accepted by the Minister for registration." In order to qualify for registration, a plan must meet the detailed requirements set out in an information circular published by Revenue Canada.(4) The following is a summary of a few of the matters dealt with in the circular:

1. The primary purpose of a registered pension plan must be "to provide pensions to retired employees in the form of life annuities. It must not be a scheme for the diversion of profits or an employees savings fund with the right of withdrawal of funds during coverage."

2. A plan must not provide for benefits to be paid to persons other than employees, their beneficiaries, or their estates.

3. Pensions must be provided by the employer as consideration for services rendered by the employee. Unless terminal funding is contemplated under the plan (not permitted under Ontario law) the employer must be obligated to make future service contributions. The plan may require employee contributions, provide for voluntary employee contributions or be non-contributory.

4. A plan must be funded through:

   a) a contract for insurance with a life insurance company;

   b) a trust under which the trustees are a trust company or three individuals resident of Canada, one of whom is independent of the participating employer;

   c) a corporate pension society;

d) an arrangement administered by the Government of Canada or a province.

5. A plan funded through a trust must have a designated administrator, who may be a participating corporate employer, a corporation resident in Canada in the pension administration business, a committee of individuals the majority of whom reside in Canada, an insurance company, or a trust company.

6. A plan must state the class of employees to be covered, the requirements to be met for eligibility and whether or not participation is compulsory.

7. Contributions to a plan must be related to "eligible pensionable service." With limited exceptions, service qualifying for pension benefits must be service with an employer "carrying on all or part of its business in Canada or otherwise operating in Canada" and, "such service normally must be service in Canada or service outside Canada directly related to the earnings by the employer of income that is taxable in Canada." Eligible service in the case of a "significant shareholder" who, either alone or in conjunction with other members of the plan who are significant shareholders or persons related to him or her or them, controls the employer, will not include years during which the significant shareholder was a member of a DPSP or a registered pension plan of the employer or a related company. A significant shareholder is a shareholder who, either alone or together with a parent, spouse, or child, owns directly or indirectly shares having 10 per cent or more of the voting power in the company.

8. Except in the case of money-purchase plans, a definite formula must be set out in the plan for the calculation of benefits. As a general rule, benefits payable on retirement must take the form of a life annuity. Except in limited circumstances, commutation of such an annuity may occur only on or after death, termination of the plan prior to retirement or by certain transfers within the employer company or to related companies. The maximum guarantee period for a life annuity is the lesser of 15 years and the period from the date of retirement to the 86th birthday of the annuitant. In the case of a joint and last survivor annuity, there may be no guarantee of payments on the death of the survivor, except to the extent of any unexpired term of a guarantee on the first life.

9. Reasonable disability pension benefits may be provided under a plan.

10. Where a spouse's or dependent's pension is not provided under the plan, the plan may provide for a return of an employee's

contributions with or without interest plus a reasonable death benefit.

11. A plan may provide for a reasonable pension to a spouse or other dependent in the event of the member's death.

12. Plans, other than money-purchase plans, must specifically prohibit the payment of pension benefits exceeding an amount determined under a prescribed formula. In the case of benefits payable on or after September 1, 1976, the maximum amount payable per year is the lesser of: (a) $1,715 times the number of years of service up to 35; and (b) two per cent of the average of the best three consecutive years of remuneration paid to the employee by the employer times the number of years of service, not exceeding 35. This formula may be varied to substitute the "best five years of remuneration" for the "best three consecutive years of remuneration." A bridging benefit is normally not taken into account in applying the maximum; but the benefit limitation must include the commuted value of any "excess bridging benefit" - that is, any amount above the equivalent of CPP/QPP and OAS maximum pensions payable (at the time of determination), or any amount that is payable after age 65.

13. The normal retirement age under a plan "should be defined and should not be before the first day of the month in which the sixtieth birthday occurs and no later than the day preceding the seventy-first birthday."

14. "No right or interest under the plan of an employee who is a beneficiary may be capable of assignment or alienation except as specifically required or permitted under the Income Tax Act, Pension Benefits Standards Act or a provincial pension benefits act." The plan must not provide for loans to plan members except by way of a mortgage at a reasonable rate of interest where such a mortgage would represent an acceptable investment for the plan. The trustees of a plan must not be empowered to borrow funds except "on a short term basis to provide funds for the payment of benefits or the purchase of annuities without resort to a distress sale of assets in the fund or to make additional investments, provided that the assets of the fund are not pledged as security for the loan and the total indebtedness of the pension fund so incurred does not exceed current service contributions and estimated earnings of the fund for the immediately subsequent twelve-month period."

15. Except where the plan is registered under a provincial pension benefits act or the Federal Pension Benefits Standards Act, it must contain a requirement that all investments will meet the requirements of section 11 of the Pension Benefits Standards

Act and section 8 and schedule C of the Pension Benefits Standards Act Regulations.

Contribution Limits

The Income Tax Act provides for the deductibility of contributions to a plan by employers and employees under certain circumstances. These provisions are somewhat more complicated than the deductibility provisions for RRSPs and DPSPs. In addition to the normal current service contributions to plans, contributions may be made by both employers and employees on account of past service.

An employee may claim a deduction for the following types of contributions to a registered pension plan:(5)

1. Up to $3,500 per year on account of current service. Unlike RRSPs, the level of the employee's income is not a limiting factor in determining the amount of the contribution.

2. Up to $3,500 in any year on account of services rendered by the employee in a previous year during which he or she made no contribution to the plan and in respect of which a past service contribution had not previously been made. The $3,500 limit for the past service contributions applies notwithstanding the fact that the contribution limit in respect of that previous year may have been lower; for example, prior to 1976, the contribution limit was $2,500 per year and, in earlier years it was even lower.

3. Amounts contributed to a plan on account of years during which the employee was a contributor to the plan. The amount which may be deducted is $3,500 less any contribution made in the previous year in question on account of current service. For example, an employee who had contributed $2,000 to a plan in 1972 would be entitled to make a further contribution in 1979 on account of the 1972 year equal to $3,500 minus $2,000 or $1,500. However, the amount deductible under this provision will be reduced by amounts contributed in the year on account of current service and past service during which the employee was not a contributor. In the example set out above, the $1,500 which the employee could contribute in 1979 on account of the 1972 year would be reduced by any current service contributions made by the employee in 1979 and any contributions made by the employee in 1979 on account of past service for a year during which the employee was not a contributor.

With one exception, contributions by an employee must be made during the taxation year for which the deduction is claimed. The exception occurs in the case of lump-sum contributions made in any year on account of past service contributions for years during which the

employee was not a contributor. In that case, any excess over $3,500 may be carried forward to future years and a deduction claimed in those future years.(6)

An additional deduction is available under the Income Tax Act for amounts received by a taxpayer from a plan, either by way of pension or by way of a lump-sum refund of contributions where the amounts in question are contributed to another registered pension plan, to an RRSP(7), or within limits to a DPSP(8) within the year of receipt or within 60 days of the end of that year.

Most teachers are eligible for special treatment under the Income Tax Act with respect to past service contributions.(9) Basically, they are entitled to deduct payments made for past service for years during which they were contributors on the same basis as other employees are entitled to make such deductions for years during which they were not contributors. This provision is designed to provide relief to teachers who were previously members of a plan but withdrew their contributions on leaving the employment of the employer under the plan.

Deductions are permitted under the Income Tax Act for three types of contributions by employers to a registered pension plan: contributions on account of current service, lump-sum contributions to provide terminal funding, and special past service contributions.

The maximum amount which may be deducted by an employer for contributions to a plan on account of current service may be determined in one of two ways.(10) Where the total contribution to the plan by the employer for any year is made up of specific amounts in respect of each employee, the deduction in respect of each employee is limited to $3,500 per year. Where contributions are not earmarked on an employee-by-employee basis, the amount deductible will be determined by regulation; basically the maximum amount deductible may not exceed $3,500 times the total number of employees in respect of whom payments are made. In some cases, the effect of the regulation will be to prevent the deduction of an amount equal to $3,500 per employee. The total contribution of the employer is allocated among the employees proportionately on the basis of their remuneration for the year. Where some employees are paid substantially more than other employees, the amount allocated to the more highly-paid employees could exceed $3,500 in which case the excess would be denied as a deduction. Where the application of this formula would result in a deduction being denied, the employer may elect that the maximum deduction in respect of each employee be the actual cost to the employer of providing the benefits under the plan in respect of services rendered by that employee. In most cases where this latter approach is adopted, it would be necessary to have an actuary make the required calculations.

Under terminal funding plans, (which are not permitted under Ontario law) the employer does not make contributions each year in respect

of each employee, but rather makes a lump-sum payment to the plan in the year in which the employee becomes eligible to retire, retires, or otherwise ceases to be employed by the employer or reaches an age when pension benefits become payable.(11) Where such a payment is made in the year in which the relevant event occurs, or within 60 days of the end of that year, the employer will be permitted a deduction. No limit is set out in the Income Tax Act for the amount which may be deducted on account of such lump sum payments. However, it is provided in the Income Tax Act that no deduction may be claimed for any amount which is unreasonable.(12) As a practical matter, the tax department has indicated it will not register any defined benefit plan which provides for pensions in excess of certain limits, (see item 12 supra).(13)

In certain circumstances, employers may claim a deduction for contributions made to a plan in the year on account of past service by an employee.(14) The payment must be made pursuant to a recommendation by a qualified actuary who is of the opinion that the resources of a defined benefit plan should be increased by the amount of the payment in question to ensure that the employer's obligations under the plan to employees may be satisfied. Any such payment must be approved in advance by the Minister of National Revenue on the advice of the Superintendent of Insurance. The deduction must be claimed in the year in which the payment is made. Once again, the amount of such a payment must be reasonable, and the Minister has set out guidelines for the maximum benefits which may be provided under a plan.

Taxation of Benefits

No amount is included in the employee's income at the time a contribution is made by the employer to a plan. Rather, all benefits received by the employees, their estates, or their beneficiaries are taxable in the year of receipt.(15) A deduction may be claimed against amounts included in income where the amounts in question are contributed within the year or within 60 days of the end of the year to another plan, an RRSP(16), or within certain limits a DPSP.(17) A taxpayer is eligible for forward averaging through the purchase of an income-averaging annuity with respect to any single payment received by him from a plan upon the death, withdrawal or retirement of an employee or former employee, upon the winding-up of the plan or upon the amendment of the plan.(18) Amounts received by a taxpayer from a plan and included in income qualify for the $1,000 pension deduction regardless of whether the taxpayer has reached age 65.(19)

Unregistered Pension Plans

Considerable interest has developed during the past year in pension plans which are not registered with Revenue Canada. Tax practitioners had tended to ignore this type of plan since 1969, when it was held by the Tax Appeal Board that contributions by an employer to such a plan were not deductible (Patons & Baldwins Ltd. v MNR, 69 D.T.C. 189[TAB]).

Although this case conflicted with earlier jurisprudence, which held that contributions by an employer to such a plan should be deductible as a general expense of carrying on business, tax practitioners shied away from a confrontation with the tax department on the issue. However, in June, 1979, a senior official of Revenue Canada made a policy statement indicating that contributions by an employer to an unregistered pension plan would be deductible by the employer if it was clear that the amount contributed could under no circumstances revert to the employer. Although the department has refused to rule on the matter, the interest of many tax practitioners has been reawakened, and it would appear likely that some use will be made of these plans in the future, unless the government introduces legislation making their use unattractive or a further court decision is rendered providing that contributions to such a plan are not deductible. Such pension plans would be governed by the Ontario Pension Benefits Act in accordance with the act's definition of a pension plan.

Non-registered plans are less attractive than registered plans from two points of view. First, no deduction is permitted for employee contributions to such plans, and second, income earned from plan funds is subject to tax. To avoid the latter problem, plan funds would generally be invested in investments which produce no taxable income, such as single premium deferred annuities or compound interest bonds. The major advantage of plans of this nature is that there is no limit on the amount which an employer can contribute to them as there is with registered plans. From this point of view, they are particularly desirable for senior employees nearing retirement with inadequate pensions. For example, an employer might decide to set up an unregistered plan for five senior employees, all of whom are 10 years from retirement. The employer might contribute $10,000 per year to the plan for each employee in each of the 10 years prior to retirement. The contributions would be held by a trustee and invested in single-premium deferred annuities maturing on the retirement of the employees. The income earned under the annuity contracts would accumulate on a tax-free basis until it was paid out to the employees in the form of an annuity. The plan would provide that, under no circumstances, could the funds revert to the employer, and the employer would claim an immediate deduction for the contributions.

This type of program has actually been in relatively common use for a number of years. However, it has generally been referred to as a "deferred compensation plan" rather than as an unregistered pension plan. The distinction between the two types of plans is not entirely clear. Presumably in a deferred compensation plan, the employee foregoes current remuneration, which is paid after retirement. In the case of an unregistered pension plan the employee does not forego income, but rather the employer is the real source of the contribution. In fact, it could be argued that an employee is in effect foregoing present remuneration whenever the employer makes a contribution to a pension

plan, since the pension plan simply forms part of his or her total compensation package.

In the case of most deferred compensation plans, the employer has generally not claimed a deduction for contributions made to the plan. However, given the indication of a shift in government policy in this regard, employers are likely to begin claiming a deduction for these contributions, at least where it is clear that the contributions cannot revert to the employer under any circumstances. In setting up deferred compensation plans, practitioners have generally taken precautions to ensure that employees do not derive a taxable benefit at the time contributions are made to the plan, but rather are subject to tax only on amounts actually received by them from the plan. In this regard, deferred compensation agreements generally provide that payments to the employee are contingent on the employee performing covenants under the deferred compensation agreements, which might include covenants to remain with the employer until retirement, to refrain from competing with the employer after retirement, and to provide consulting services to the employer after retirement.

The federal budget which was defeated in December, 1979 would have removed the unintended tax advantages of certain unregistered pension plans, by providing that payments after December 11, 1979 by an employer are not deductible until the amounts vest irrevocably in the employee. At that time they will be taxable income to the employee. Special provisions would be made for foreign branches of Canadian employers.

REGISTERED RETIREMENT SAVINGS PLANS

In 1957, provision was made in the Income Tax Act for Registered Retirement Savings Plans (RRSPs). The RRSP was intended to assist individuals not involved in private pension plans to create a fund for the purpose of providing a retirement income. However, because of the substantial tax advantages of RRSPs, they have become highly popular with middle and upper-income taxpayers, and financial institutions enter the market each spring to compete vigorously for RRSP dollars. RRSPs provide three major tax advantages:

1. The deduction permitted for contributions to an RRSP enables the contributor to defer taxation of the amount of the contribution until a later date when amounts are withdrawn from the RRSP - thereby, in effect, giving the contributor the use of the government's money during the deferral period.

2. Because income from the investment of the RRSP fund is not taxed, the growth of such a fund is much more rapid than that of a similar fund whose income is subject to taxation.

3. At the time taxpayers begin to receive retirement income from the fund, their income and thus their marginal tax rate is likely to be lower than it was at the time the contribution was made. Where this is the case, an actual tax saving arises in addition to the deferral.

Section 146 of the Income Tax Act provides a detailed code governing RRSPs, which appears to be designed to achieve the following policy objectives:

1. To limit the investment of RRSP funds to "pension-type" investments in order to prevent taxpayers and their advisers from speculating with retirement income.

2. To guard against the use by taxpayers of RRSPs to achieve tax and estate planning objectives rather than to provide a retirement income.

Retirement Savings Plans may be provided by insurance companies, trust companies, and other financial institutions approved by Order-in-Council including investment vehicles commonly known as mutual funds. (20) Chartered banks and credit unions have been able to compete for RRSP dollars by arranging to have a trust company act as trustee for their funds. Under proposed legislation, these institutions would be permitted to compete directly in the RRSP market.(21)

In order to qualify for the tax advantages, a Retirement Savings Plan must be registered with Revenue Canada. The requirements for registration are set out clearly in the Income Tax Act:(22)

1. The plan may not provide for benefits to be payable to the holder of the plan (the "annuitant") prior to the maturity of the plan.

2. The plan may not provide for contributions to be made after the maturity of the plan.

3. The plan must mature after the annuitant's 60th birthday and before the end of the year in which he or she reaches the age of 71.

4. The plan may not provide for a benefit after maturity other than by way of a "retirement income."

5. Where the retirement income takes the form of an annuity, such an annuity may not be capable of surrender, commutation or assignment except on the death of the annuitant.

6. The plan must provide for the commutation of any annuity on the death of the annuitant where the payments would be made to a person other than the spouse of the annuitant.

Contribution Limits

An individual whose employer contributes to a registered pension plan on his or her behalf may claim a deduction each year for contributions to an RRSP of up to 20 per cent of "earned income" with a maximum of $3,500 less the amount of the employee's contribution to a registered pension plan.(23) For example, a taxpayer with earned income of $15,000 who contributed $1,500 to a registered pension plan could make a deductible contribution of $1,500 to an RRSP (20 per cent of $15,000 less the $1,500 contributed to his pension plan). For other individuals, the deduction allowed is 20 per cent of earned income up to a maximum of $5,500 per year. It is possible for a taxpayer to contribute property in lieu of cash to his or her RRSP, provided that the property in question is a "qualified investment." An individual may make all or part of the permitted contribution to an RRSP for his or her spouse.(24)

In addition to the normal deduction for contributions to an RRSP, a deduction may be claimed for contributions made to an RRSP on account of certain payments received by a taxpayer in a taxation year and included in income.(25) Amounts qualifying for this treatment include superannuation and pension benefits, old age pensions, Canada Pension Plan pensions, retiring allowances, and amounts received under a Deferred Profit Sharing Plan. For example, an individual receiving a substantial retiring allowance could avoid immediate taxation of the lump sum in one year at high marginal tax rates by contributing the amount in question to an RRSP. In addition, an individual such as an army officer who retired at a relatively young age and took up alternative employment, could defer tax on pension income by contributing it to an RRSP.

The defeated 1979 budget proposed to permit farmers to transfer taxable capital gains of up to $100,000 on the sale of farm land.

Prior to 1976, some taxpayers made contributions to RRSPs in excess of the amount they were entitled to deduct. Although these over-contributions were not deductible and it was not entirely clear that they would not be taxable when withdrawn from the plan, the taxpayers in question believed that these disadvantages were more than offset by the fact that the income earned in the plan on the over-contribution would not be taxable. The Income Tax Act now contains provisions which make over-contributions unattractive.(26) Taxpayers who inadvertently over-contribute will generally be able to take steps to avoid the penalties which would otherwise apply.

Spousal RRSPs

Little is known about the incidence or patterns of participation in spousal RRSPs. Income tax data, a major information source for RRSPs generally, do not identify spousal RRSPs. An individual may allocate all or part of the allowable RRSP contributions to a spouse. Whether these contributions are split between husband and wife or used entirely for a spousal fund, they are deductible from the purchaser's earned income only. Therefore, tax records need not and in fact do not differentiate between personal and spousal contributions.

Spousal RRSPs are instruments which may be used to redistribute income within the family unit so as to minimize the total income tax load. At the point of purchase, tax advantages from spousal RRSPs accrue to the purchaser, but the fund thus established is turned over to and accumulated in the spouse's name. This means that when the funds are withdrawn, the proceeds are taxable in the hands of the recipient spouse. Tax benefits, therefore, may be realized in one of two ways depending upon the ultimate objective.

As a short-term tax saving device, spousal RRSPs theoretically could be liquidated almost immediately on receipt. In so doing, a spouse with little or no income would escape tax altogether or would pay at a much lower rate than would apply to the family's primary income earner. Indeed, when first introduced, this was a widespread practice. This use of RRSPs solely as a tax device openly circumvented their primary function as retirement savings - the purpose for which they were originally designed. To close off this avenue to some degree at least, regulations were tightened in 1977 so that contributions withdrawn within three years of inception of a spousal RRSP become taxable in the contributor's hands rather than in the spouse's hands.

From the perspective of a retirement savings program, the long-term advantages are more significant. The split in family retirement income resulting from spousal RRSPs provides tax savings in two ways. First, where one partner in the marriage is in a much lower tax bracket than the other, the income from the spousal plan attracts a lower rate of tax. Second, after age 65, if the spouse has no other pension income, the first $1,000 of RRSP benefits is non-taxable. Thus, both partners may acquire the pension income deductibility allowable for income tax purposes. The combined effect of these two factors would materially reduce the total tax payable by the family, and so increase their net income.

Investment of the RRSP Fund

A number of restrictions are imposed under Section 146 on the investment of the RRSP fund. A breach of these restrictions may result in serious tax consequences; for example:

1. Where the RRSP trust borrows money, it will be taxed on its income in any year during which the loan is outstanding unless the borrowed funds are used to carry on a business.(27)

2. Where an RRSP trust carries on business, the trust will be taxed on its income from carrying on business.(28)

3. Where an RRSP trust disposes of property for a consideration less than its fair market value, the difference between the fair market value and the consideration received is included in the annuitant's income.(29)

4. Where an RRSP trust acquires property for a consideration greater than its fair market value, the excess of the consideration paid over the fair market value will be included in the annuitant's income.(30)

5. Where the property of an RRSP trust is used as security for a loan, the fair market value of the property used as security will be included in the annuitant's income.(31)

6. Where an RRSP trust makes an investment which is a "non-qualified investment," the cost to the trust of the investment will be included in the income of the annuitant.(32) The following are qualified investments:

   a) bank, trust company and credit union deposits;

   b) guaranteed investment certificates of a trust company;

   c) federal, provincial and municipal bonds and debentures;

   d) shares listed on a prescribed stock exchange in Canada;

   e) shares listed on a prescribed foreign stock exchange;

   f) shares of an investment corporation;

   g) bonds and debentures of a corporation the shares of which are listed on a prescribed Canadian stock exchange;

   h) mortgages on Canadian real estate provided the mortgagor is not the annuitant or person with whom the annuitant does not deal at arm's length.

   It will be noted that considerable flexibility is allowed as to the investment of the RRSP fund; in particular, shares of companies listed on a Canadian stock exchange are qualified investments regardless of their earnings record.

7. Where the cost of foreign property to the RRSP trust exceeds 10 per cent of the cost of all property held by the trust at the end of any month, a penalty tax of one per cent per month on the excess is imposed.(33)

The Retirement Income

All amounts withdrawn in any manner from RRSPs are subject to tax. However, the tax treatment varies widely depending upon the form and timing of the receipt and the situation of the recipient. It is contemplated under section 146 that no benefits will be received from an RRSP prior to maturity, which must be after the annuitant's 60th birthday and prior to the end of the year in which the annuitant reaches age 71. The RRSP will then be used in one of three ways:(34)

1. To purchase an annuity for the life of the annuitant or for the joint lives of the annuitant and his or her spouse with a guaranteed term of up to 15 years in either case.

2. To purchase an annuity with a fixed term equal to 90 minus the age of the annuitant at maturity; or where the annuitant's spouse is younger than the annuitant, 90 minus the age of the spouse at the time the annuity is purchased.

3. To create a Registered Retirement Income Fund.(35) A Registered Retirement Income Fund (RRIF) is a contract between an individual and an insurance company, trust company, or mutual fund (a "carrier") under which the carrier agrees to hold property from the RRSP on behalf of the individual and pay to the individual a portion of the value of the fund at the beginning of the year equal to one over 90 minus the age of the individual in a whole years or, where the individual's spouse is younger than the individual, one over 90 minus the age of the spouse. The proportion of the fund paid out will increase from year to year until the year the individual or spouse reaches age 90 when the balance in the fund will be paid out. Assuming normal rates of return, the amounts paid out in the earlier years will be less than the income from the fund.

Section 146 does not prevent an individual from withdrawing funds from an RRSP prior to maturity. When such a withdrawal takes place, the amount in question is included in the taxpayer's income in the year of receipt.(36)

Where the annuitant dies prior to maturity, an amount will become payable as provided in the plan to the estate or the beneficiary named under the plan. This amount will be included in the income of the annuitant immediately prior to death(37) except where his or her spouse is entitled to the amount in question. In that case it will be included in the spouse's income, and the spouse will be entitled to tax relief

through the purchase of an income-averaging annuity(38) or the contribution of the entire amount to his or her own RRSP.(39) Where the beneficiary is a dependent child or grandchild, an amount up to $5,000 times 26 minus that person's age in full years may be excluded from the income of the deceased in the year of death and used to purchase an income-averaging annuity. If the child or grandchild is dependent by reason of mental or physical infirmity, no limit is placed on the amount qualifying for forward averaging through the purchase of an income-averaging annuity.(40)

Where the annuitant dies subsequent to the maturity of the plan, and a person other than the annuitant's spouse becomes entitled to receive an amount from the RRSP or from a Registered Retirement Income Fund, the value of the amount the person becomes entitled to receive is included in the annuitant's income immediately prior to his or her death.(41) In order to be registered, an RRSP must provide for the commutation of any annuity which would become payable to a person other than the spouse of the annuitant.(42) It is this commuted value which will be included in the income of the annuitant immediately prior to his death. In the case of a Registered Retirement Income Fund, the balance standing to the credit of the annuitant at the time of death will be included in his or her income.(43) Where the beneficiary of the annuity payments or the Registered Retirement Income Fund is the annuitant's spouse, the annual payments will continue and are taxed in the hands of the recipient in the year of receipt.(44) Where a dependent child or grandchild is a beneficiary, an amount up to $5,000 times 26 minus that person's age may be excluded from the income of the deceased in the year of death and used to purchase an income-averaging annuity. If the child or grandchild is dependent by reason of mental or physical infirmity, no limit is placed on the amount qualifying for forward averaging through the purchase of an income-averaging annuity. (45)

Prior to 1977, amounts received by a beneficiary on the death of an annuitant under an RRSP were taxed in the hands of the recipient regardless of relationship to the annuitant. The requirement that amounts be taxed in the hands of the annuitant in the year of death was introduced to prevent taxpayers from achieving unduly long tax deferrals or other estate planning objectives through the use of RRSPs. In effect, the government was re-emphasizing the primary purpose of RRSPs, as a private pension vehicle to provide a retirement income for the annuitants and to provide for their dependents after retirement.

Annuity payments under RRSPs and payments from Registered Retirement Income Funds represent qualifying income for the purposes of the $1,000 pension deduction when received by individuals aged 65 and over.(46) Annuity payments under RRSPs and payments from Registered Retirement Income Funds received by the spouse of a deceased annuitant qualify for the pension income deduction, whether or not the annuitant or spouse have attained age 65.

DEFERRED PROFIT SHARING PLANS

The favourable tax treatment accorded Deferred Profit Sharing Plans (DPSPs) under section 147 of the Income Tax Act recognizes that profit sharing as opposed to fixed contributions by an employer may in certain cases be an appropriate means of funding a retirement plan. As a general rule, DPSPs appeal to smaller employers for whom it would not be appropriate to establish a pension plan, either because of the size and stability of the employer, the financial position of the employer or a variety of other reasons. Unlike registered pension plans, there are no rules prohibiting the use of DPSPs primarily for the benefit of significant shareholders of an employer corporation. As a result, many "family" corporations establish DPSPs for the benefit of members of the family who are employed in the corporation.

The tax advantages of DPSPs are substantially similar to those of RRSPs, except that it is the employer rather than the individual taxpayer who makes a contribution to the plan. Contributions by an employer within the limits set out in the Income Tax Act are deductible in the year in which they are made. Income earned from investment of plan funds accrues on a tax-free basis. Amounts received by employees from the plan are subject to tax in their hands in the year of receipt.

Formal Requirements

A DPSP is a "profit sharing plan" accepted by Revenue Canada for registration.(47) To qualify as a profit sharing plan, the plan must provide for employer contributions computed by reference to profits from the employer's business or the profits from that business and those of a corporation with whom the employer does not deal at arm's length. This formulation enables an employer to take into account the profits of subsidiaries or other related corporations in determining the amount of the contribution. The contributions must be made to a trustee for the benefit of the employees. The plan may also provide for contributions by employees, although for most employees, (as explained below) there is no significant tax advantage to be gained by making a contribution to a DPSP. Profit sharing plans do not qualify for any significant tax relief unless registration is obtained as a DPSP. The requirements for registration are set out in the act:(48)

1. Amounts contributed to the plan must be allocated by the trustee among the beneficiaries in the year in which they are received. Allocations must be made to the employees in respect of whom the contribution was made.

2. The plan must not provide for loans to beneficiaries.

3. Plan funds must not be invested in debt obligations of the employer or related corporations.

4. The plan must provide that the interest of a beneficiary under the plan is not capable of assignment.

5. Each of the trustees under the plan must be resident in Canada.

6. If a trust company does not act as trustee, there must be at least three individual trustees.

7. The plan must provide that all income received, and all capital gains and losses realized by the trust during each year, are to be allocated to the beneficiaries under the plan within 90 days of the end of the year.

8. Amounts allocated or re-allocated to a beneficiary must vest irrevocably in that beneficiary not later than five years from the end of the year of the allocation or the reallocation if the beneficiary is still employed by the employer at that time. Under this formulation, it is possible for a beneficiary to forfeit amounts allocated where employment ceases during the vesting period. Although amounts must vest within five years, it is not uncommon to provide for immediate vesting or vesting within a shorter period. (A reallocation arises where a beneficiary has forfeited his or her interest in the plan and the amount in question is divided among the remaining beneficiaries).

9. The plan must provide that a trustee under the plan inform in writing all new beneficiaries of their rights under the plan.

10. The plan must provide that all amounts vested in a beneficiary become payable to the beneficiary or, in the event of death, to a beneficiary designated by him or her, or to the estate, not later than 90 days after the earliest of:

    a) the death of the employee;

    b) the day on which the employee ceases to be employed by the contributing employer;

    c) the beneficiary's 71st birthday;

    d) the date of termination of the plan.

    However, the beneficiary may elect to receive his or her interest under the plan in annual or more frequent instalments over a period of up to 10 years, or to have the amount paid to an issuer of annuity contracts to purchase an annuity. Such an annuity must commence no later than the person's 71st birthday and may not have a guaranteed term in excess of 15 years.

In addition to the formal requirements for registration set out in the Income Tax Act, the Department also requires that:(49)

1. Where individual trustees are used, at least one of these individuals must be independent of the operations of the employer and not a shareholder.

2. All amounts allocated to a beneficiary must vest upon retirement by reason of age or disability regardless of whether five years has passed since the allocation was made.

3. Amounts may not be divested upon dismissal for cause or because of union membership.

4. The trustees must have sufficient authority to ensure the implementation of the plan and the payment of benefits to beneficiaries.

5. Borrowing by the plan is only permitted on a short-term basis to facilitate the payment of benefits.

6. Employee contributions, if any, must vest immediately in the contributor.

7. The plan must provide for a minimum contribution in any year in which the employer has profits.

Deductibility of Contribution

Within the limits set out in the Income Tax Act, employers may deduct contributions made to DPSPs in a taxation year or within 120 days after the end of the taxation year. The contribution limit for each employee is the lesser of 20 per cent of the employee's salary or wages paid in the year by the employer or $3,500. Contributions made by the employer in the year to a registered pension plan on account of current service of the employee reduce the amount which may be deducted for contributions to a DPSP on behalf of that employee.(50)

It is not possible for employees to make tax-deductible contributions to DPSPs. However, where the plan provides, employees may contribute up to $5,500 per year to a DPSP on an after-tax basis. Penalties will be levied where contributions are made in excess of $5,500 per year.(51) For the most part, employees will not be interested in making contributions to DPSPs. However, an employee with excess cash might make a contribution to a DPSP to shelter from tax the income earned on the amount contributed. Because a DPSP trust is not subject to tax, the income from amounts contributed will accumulate on a tax-free basis. This income will be taxed when the funds are withdrawn from the DPSP, but the original contribution by the employee can be extracted tax-free.

The employer's contribution must be computed by reference to profits, and the plan must provide for a minimum contribution in any year in which the employer has profits.

Investment of the Fund

Provided that the DPSP fund is managed and invested in the manner required under the act, the income from the fund will not be subject to tax.(52) If the DPSP trust acquires a "non-qualified" investment or permits property of the trust to be used as security for a loan, it will become subject to tax under part X of the Income Tax Act. Qualified investments for the purposes of a DPSP are similar to those prescribed for RRSPs.(53) To qualify for registration, it must be specified in the plan that loans to members of the plan are prohibited. In addition, no part of the DPSP fund may be invested in debt obligations of the employer, corporations with whom the employer does not deal at arm's length, or corporations more than 50 per cent of the assets of which consist of obligations of the employer.(54) A tax is imposed under part XI of the Income Tax Act where the cost of foreign property to the DPSP is in excess of 10 per cent of the cost to it of all property held. Where a trust governed by a DPSP disposes of property to a taxpayer for a consideration less than the fair market of the property, or acquires property from a taxpayer for a consideration in excess of the fair market value of the property, the difference between the fair market value of the property and the consideration will be included in the income of the taxpayer.(55)

Taxation of Benefits

Amounts received by a member of a DPSP or a member's estate or beneficiary are subject to tax in the year of receipt. However, this will not be the case to the extent that the amounts in question represent a return to the member of his or her contributions to the plan.(56) To be registered, a plan must provide that all amounts vested in a member become payable to the member or, in the event of death, to a beneficiary designated by the member or to his or her estate, not later than 90 days after the earliest of the death of the member, the day on which the member reaches age 71 and the day on which the plan is wound up. The employee may choose not to accept a lump-sum payment, but rather to be paid in equal instalments over a period of up to 10 years or to have the balance standing to his or her credit applied towards the purchase of an annuity commencing not later than the 71st birthday with a guaranteed term not greater than 15 years.(57) Where either of these options is chosen, the member will be taxable only to the extent of amounts actually received each year. Where a lump-sum payment is chosen, the employee will be entitled to defer the taxation of the payment by contributing it to an RRSP(58) or to spread the taxation of the amount out over a number of years by the purchase of an income-averaging annuity.(59) Amounts received by a taxpayer under a DPSP, other than lump-sum payments, qualify for the $1,000 pension deduction when received by

a taxpayer who has attained age 65 or by a taxpayer under age 65 who receives the payments as a result of the death of his or her spouse.(60)

RELATIVE ADVANTAGES OF RRSPs, DPSPs, AND RPPs

The three income deferral plans are clearly designed to meet different needs and thus appeal to different groups of taxpayers. The registered pension plan is most relevant to employees of larger businesses whose employers, as part of a contract of employment, are providing retirement benefits to the employees with or without the assistance of the employees in the form of contributions. Where employees are entitled to make voluntary contributions, the plan may double as a savings vehicle. However, the employee, for the most part, will not have access to those savings. Since the payment of the benefits to be provided under a pension plan will be in part contingent on the continued existence and profitability of the employer, pension plans, other than those of the money-purchase variety, may not be appropriate in the case of smaller employers whose financial stability and permanency is in question. That difficulty is sometimes overcome by establishment of a multi-employer plan, in which solvency and continuity of benefit accrual do not depend on the fortunes of a single firm.

Unlike pension plans, RRSPs are available to both the employed and the self-employed. Since the RRSP is funded entirely by the beneficiary and the funds in the plan are freely accessible to the contributor, it is, as we have seen, primarily of use to higher-income individuals. As a result, RRSPs are unlikely to be of interest to younger taxpayers, with limited savings and with pressing financial commitments such as residential mortgages. However, for many taxpayers, both employees and self-employed, the RRSP represents the only opportunity to create a retirement fund on a tax-sheltered basis. In addition in Ontario nearly 40 per cent of those contributing to an RRSP also contribute to a pension plan.(61)

DPSPs will appeal to many of the same taxpayers as RRSPs, except that DPSPs are not available to most of the self-employed. For example, professional taxpayers carrying on business in partnership will not be able to take advantage of DPSPs. DPSPs are generally used by the shareholders and key employees of closely-held corporations to provide a retirement fund. An employee cannot rely on a DPSP to provide a reliable pension income, since the employer has no obligation to contribute any fixed amount to the plan. DPSPs are often used as part of a bonus in incentive programs. The effect of the vesting provisions may be to discourage employees from leaving the company.

Although the three plans tend to appeal to different groups, there is, in practice, a considerable amount of overlapping. For example, members of pension plans may wish to supplement their retirement income by making contributions to RRSPs, or members of pension plans may choose

not to make voluntary contributions to them, but rather to contribute to RRSPs. In some companies, employees may decline to join a pension plan if they can obtain additional remuneration to contribute to an RRSP. Group RRSPs have begun to develop as an alternative to pension plans. Legally, a group RRSP is simply a collection of individual plans, and the position of the taxpayer is no different than it would be if he or she had an individual plan. From a practical standpoint, however, the situation is somewhat different, since the taxpayer's contribution is made directly by the employer, and the funds thus contributed by all employees are administered on a group basis. Similarly, DPSPs or a combination of DPSPs and RRSPs may in certain companies be regarded as an alternative to pension plans. Although many non-tax features will come into play in determining the choice of plan, the provisions of income tax legislation with respect to the three plans will certainly be a major factor in the decision. In comparing the tax treatment of the three plans, we will deal in turn with the requirements of the legislation relating to contributions, the management of the resulting fund, and the payment of benefits from the plans.

Contributions

Tax legislation seems to start from the premise that the registered pension plan is the basic pension vehicle, with RRSPs and DPSPs representing alternatives or supplementary vehicles. Contributions to RRSPs and DPSPs are reduced by contributions made to pension plans. Where the taxpayer's employer makes contributions on his or her account to a pension plan, the maximum which can be contributed to any combination of the three plans is $7,000 per year; contributions by the employer to a pension plan are limited to $3,500; contributions to a DPSP are limited to $3,500 less any contribution made by the employer to the pension plan; contributions by the employee to a pension plan are limited to $3,500 and contributions by the employee to an RRSP are limited to $3,500 less any amount contributed by the employee to the pension plan. If the taxpayer is not a member of a pension plan, the maximum which can be contributed to a combination of DPSPs and RRSPs will be $9,000, that is, $5,500 by the employee to an RRSP and $3,500 by the employer to a DPSP.

It should be noted that a member of a non-contributory pension plan may contribute up to $3,500, whereas a member of a contributory plan deducts the amount of his or her contributions. Theoretically therefore, both members may obtain the same pension benefit from the pension plan, but the member of the non-contributory plan has a greater opportunity to save for retirement. In the case of pension plans (except money-purchase plans) there is also the possibility that the employer or employee or both can make a contribution to the plan on account of past service. Where the employee is entitled to make such a contribution, the maximum amount which can be contributed to income deferral plans will be increased by $3,500 to $10,500. No specific limit is placed on the amount which can be contributed by an employer on

account of past service. However, the amount in question must be certified by an actuary as being required to fund the obligations of the plan to the employee. In the case of pension plans, no restriction is placed on the maximum contribution in terms of a percentage of remuneration as is the case with RRSPs and DPSPs, where the contribution may not exceed 20 per cent of salary or wages (DPSPs) or earned income (RRSPs).

The Commission does not recommend any change in the maximum contribution limits for pension plans, RRSPs, or DPSPs. However, it sees no reason why the 20 per cent limitation should be applied to RRSPs and DPSPs, particularly since no past service contributions can be made to these plans. Furthermore, since saving for retirement increases with age in terms of the desire and ability to save, the 20 per cent limitation is unrealistic. If the 20 per cent limitation is removed, the inequity of being unable to make past service contributions will be alleviated. The Commission also recommends that money-purchase plans be permitted the same opportunities for past service contributions as other registered pension plans.

There are certain differences with respect to the timing of contributions to the various plans. Employee contributions to pension plans must be made within the year, whereas contributions to RRSPs may be made within the year or the 60 days following the end of the year. Employer contributions to DPSPs and current service contributions to pension plans may be made within 120 days following the end of the year.

RRSPs have one significant advantage over pensions plans and DPSPs, in that contributions to an RRSP can be made to an RRSP of the spouse of the contributor. In this way, substantial tax savings can be realized through income splitting. For example, an individual, who made sufficient contributions during a lifetime to create an RRSP fund that would generate a life annuity of $20,000 per year commencing at age 65, would be taxed on the entire $20,000, subject of course to the relevant exemptions and deductions; but if one-half of the contributions were made to a spousal RRSP, the $20,000 per year would be split equally between the spouses for income tax purposes. Given the effect of progressive tax rates and the fact that each spouse would be entitled to claim the $1,000 pension deduction, the tax saving at 1979 rates would be in the range of $1,000 per year.

The Fund

There are also considerable differences in the regulatory provisions relating to the funds created under RRSPs, DPSPs, and pension plans, such as investment of the fund, management of the fund, and access of the beneficiary to the assets of the fund. The apparent goals of the legislation are similar in the case of all three plans:

1. To ensure that the fund is managed competently.

2. To ensure that the fund is invested conservatively.

3. To ensure that the fund is used to provide retirement income rather than to achieve other goals of the beneficiary, such as tax and estate planning objectives.

However, the relative importance assigned to these goals varies according to plan type. The regulations relating to pension plans, while not set out in the statute itself, are clearly the most stringent.

Revenue Canada has indicated in its information circular(62) that a pension plan must be designed to create a retirement income for the employee and must not be used as a savings vehicle. This principle is strictly observed in the regulatory provisions. Employees have no access to amounts standing to their credit in a pension plan prior to retirement, except to the extent that amounts may be paid to employees when they leave the service of the employers on account of their own contributions to the plan and any interest thereon. Amounts vested in employees will remain "locked-in" to a pension plan with which the employees have no connection in the event of a change of employers. In the case of DPSPs, the employees have no right to require payment to them of amounts from the fund prior to retirement, except that all amounts vested in them become payable in the event that they cease to be employed by the contributing employers. Although it is contemplated in the Income Tax Act that an RRSP fund should be used to create a retirement income commencing at certain specified dates, taxpayers are free to withdraw amounts standing to their credit in an RRSP at any time, subject of course to the proviso that such amounts will be subject to tax in the year of withdrawal.

In addition to restrictions on the accessibility of the various funds to the member, in the case of pension plans and DPSPs there is the possibility of forfeitures if the member ceases to be employed by the employer who set up the plan. The regulatory provisions under income tax legislation are silent on the question of vesting of pension benefits. However, under pension benefits legislation, to the extent that employer contributions are not vested in the employee, they may be forfeited on termination of employment. Similarly, a DPSP may provide for forfeiture of amounts which are not vested in an employee on termination of employment; but rules relating to vesting are set out in the Income Tax Act. In the case of RRSPs, there is no possibility of forfeiture.

The rules relating to all three types of plan are designed to ensure that the fund is segregated from the assets of the contributor and is managed in a competent manner. In the case of pension plans and DPSPs, considerable flexibility is provided in that the fund may be held and managed by three individual trustees. However, a pension plan funded through a trust must have a designated administrator, who may be a participating corporate employer. An RRSP fund must be held by a

financial institution; however, it is possible for the individual annuitant to control the investment of the RRSP fund under a self-managed plan. In addition, the annuitant is free at any time to transfer funds in an RRSP to a new plan if he or she is not satisfied with the return from the existing plan.

Restrictions are placed on the investments which may be made by pension plans, DPSPs, and RRSPs. The restrictions relating to DPSPs and RRSPs which are set out in the Income Tax Act and regulations, are very similar. Except where a pension plan is registered under one of the pension benefits acts, investments must conform to the requirements of the federal Pension Benefits Standards Act and regulations. As a result, in order to qualify as an investment for a pension plan, securities of a corporation may have to meet certain criteria (e.g., dividend record) which are not required for RRSP and DPSP investments. In the case of all three plan types, the fund is not subject to tax on its income. As a result, certain types of investments are more desirable than others. For example, equities will tend not to be as desirable an investment for a fund because the favourable tax treatment accorded capital gains and dividends are of no benefit to a tax-exempt fund. A budget proposal, defeated at the end of 1979, would have improved the tax position of RRSPs having capital gains. However, in pursuing an investment strategy, an administrator will always adopt the approach which will produce the highest rate of return regardless of income tax treatment.

Income tax legislation is designed to prevent various uses of the tax-sheltered funds for taxpayers' short-term financial benefit. For example, asset transfers between the funds and beneficiaries must take place at fair market value, loans to the holder are forbidden, and benefits payable from the plans are not assignable. The provisions relating to all three types are similar in their general outlines. A significant concession exists in the case of pension plans, where mortgage loans can be made to beneficiaries provided a reasonable rate of interest is charged.

Retirement Benefits

Retirement benefits from pension plans must take the form of a life annuity. RRSPs and DPSPs provide considerably more flexibility in this regard. A beneficiary under a DPSP may elect on retirement to receive amounts payable in the form of a lump sum, equal instalments over a period of up to 10 years, or a life annuity with a guaranteed term not in excess of 15 years. The range of options available on retirement to owners of RRSPs is even broader. The owner may elect to take a life annuity or an annuity with a fixed term to age 90, or to contribute the balance in the fund to a Registered Retirement Income Fund. The owner of an RRSP is always free to withdraw funds in the form of a lump sum. There is no substantial difference in requirements relating to the date a retirement income must commence under the three plans. No limits are

placed on the amount of retirement income which may be paid from RRSPs and DPSPs, whereas in the case of pension plans precise limitations are provided.(63) These limitations, which have not kept pace with inflation, often come into play where pensions are being provided for upper-income taxpayers.

Conclusion

Although it is difficult to make generalizations about the relative advantages of pension plans, DPSPs, and RRSPs, from a tax point of view it is clear that some of the restrictive features of pension plans make them less attractive than RRSPs or a combination of RRSPs and DPSPs, at least to more affluent employees. These employees would prefer to have the employer's contribution to a pension plan paid to them directly to enable them to make an RRSP contribution, to have it paid to a DPSP or a combination of these two approaches. The negative features of pension plans which give rise to this result are:

1. In most cases, larger contributions can be made to a combination of DPSPs and RRSPs than to pension plans. An RRSP contribution can be made to a spousal plan.

2. Unvested employer contributions to a pension plan, and in some cases interest on employee contributions, are forfeited on a change of employers. Forfeitures also occur in DPSPs, but Revenue Canada requires vesting that is somewhat more favourable to younger short-service employees than is required by pension plan legislation: five years after allocation or reallocation of the profit share, as opposed to age 45 and 10 years' service for pension contributions.

3. Vested employer and employee contributions are generally locked in to a pension plan with which the employee no longer has any connection in the event of a change of employers.

4. RRSP contributions may be made to a variety of separate plans, and transfers of funds can be made to new plans as investment conditions change. Generally, the individual has some control over investment of an RRSP fund.

5. The employee may control the timing of withdrawals from an RRSP fund, and has a greater choice as to the form and timing of withdrawals in the case of both RRSPs and DPSPs.

RRSPs clearly permit greater flexibility and individual control than pension plans, and such flexibility is more acceptable in tax-sheltered schemes representing individual savings. More restrictions are built into pensions since employers contribute substantial funds and pension plans differ from individual savings plans. The Commission supports the flexibility of RRSPs to encourage individual saving for

retirement. In its opinion, the restriction limiting the maximum contribution to 20 per cent of earned income should be relaxed. The maximum contributions should be dollar amounts only. This will enable those who may not be able to afford to make contributions to RRSPs in earlier years to make greater contributions in later years. This would benefit lower-income savers and provide a greater savings opportunity when concern for retirement is greater. To some extent this will compensate those relying on RRSPs for retirement income for the inability to make back contributions comparable to the past service options for pension plan members.

The question arises to what extent retirement income arrangements should receive parallel tax treatment. At the present time, pension plans, RRSPs and DPSPs serve different purposes, and RRSPs operate in a distinctly different way, although all provide income in retirement. There is no need to have identical tax treatment if we assume that pension plans and savings plans may be legitimately distinguished. If, however, pensions assume all the attributes of deferred wages so that employer contributions are identified as the employee's earnings, an argument may more plausibly be made (and pressures will be exerted) to have the flexibility of savings plans applied to pension monies. Furthermore, if the mandatory plan recommended by the Commission is enacted and has matured, the original reasons for the rigidity of pension plans will not apply. For example, options other than the life annuity may be permitted at retirement, since government programs and PURS will ensure a sufficient income without a need for income supplements. For the present, however, no movement to parallelism is recommended, and the restrictions applying to pension plans should be maintained, except to accord with the Commission's other recommendations.

It is desirable, however, that similar tax-sheltered vehicles receive similar treatment. Tax advantages should not favour one design of pension plan over another. For example, deductions by employer and employee for past service contributions should be permitted in money-purchase plans.

As discussed in Chapter 8, a major drawback in pension plans is the lack of vehicles to afford a measure of portability. The Commission's recommended rights on termination of employment are essential if today's mobile workers are to obtain any benefit from pension plan membership. The Commission has recommended that upon termination, an employee in a contributory plan may elect to transfer one-half the accrued pension benefit to a PURS account, if the mandatory plan is adopted; to a special locked-in vehicle similar to an RRSP; or to a new plan if permitted by the subsequent employer. If the proposed mandatory plan is not implemented, it is still essential that the same rights be extended to terminating employees - through the creation of a special locked-in vehicle for receiving and investing monies transferred from pension plans. It follows that both the transfer process and operation of the new investment vehicle must be given favourable income tax treatment;

that is, transfers should not attract tax, and investment earnings should be permitted to accumulate on a tax-free basis. Benefit payments, as in all tax-deferral arrangements, would be brought into the income of beneficiaries when received.

TAXATION OF RETIREMENT INCOME

Benefits from pension plans, RRSPs, and DPSPs are generally taxable to the recipient as ordinary income. This is true of most forms of retirement income. Payments under the Canada Pension Plan and Old Age Security pensions are subject to tax, as are retiring allowances and death benefits.(64) However, for various public policy reasons, exceptions to this rule have developed:

1. The guaranteed income supplement (GIS) is not subject to tax, although it is unlikely that anyone qualifying for this benefit would have a sufficiently high income to be subject to tax in any event.(65)

2. Although death benefits are taxable, the term is defined in such a way as to exclude the lesser of $10,000 or the employee's remuneration for the last year of employment.(66) Presumably this provision was originally designed to give recognition to the weak financial position in which dependents are likely to find themselves after the death of a provider. Following this line of reasoning, one would assume that all death benefits should qualify under the exempting provision. However, the exempting provision applies only to amounts received upon the death of an employee in recognition of his or her service; this formulation excludes death benefits payable under the Canada Pension Plan.

3. Payments under Workmen's Compensation legislation are also exempt from tax. One reason for this exemption may be that disabled persons are less likely to be in a position to pay tax than healthy persons.(67) However, once again, this principle is not observed throughout the income tax legislation. Periodic payments under a sickness or accident insurance plan, a disability insurance plan, or an income maintenance insurance plan are subject to tax except when the taxpayer has paid the premiums.(68)

4. Courts have held that amounts paid to an employee upon termination of employment are not subject to tax to the extent that they constitute "damages for wrongful dismissal."(69) Although the reasons given have not been entirely consistent, the courts as a general rule have distinguished between payments made in lieu of notice, which are taxable, and damages for wrongful dismissal, which are not taxable. In the federal budget of

November 16, 1978,(70) it was proposed that the Income Tax Act be amended to provide that payments made on termination of employment be included in income to the extent that they do not exceed 50 per cent of the employee's total remuneration for the 12-month period prior to the date of termination. It is likely that the tax department will concede that any excess over this amount is tax-free. Presumably the rationale here is that payments for up to six months' salary are simply compensation for income the employee loses while searching for another job, whereas amounts in excess of six months' salary are likely to represent compensation for permanent damage done to the employee's career, and as such should not be subject to tax. Legislation implementing the proposed change was passed in the fall of 1979.(71)

The following forms of tax relief are provided to taxpayers receiving pension income:

1. A deduction may be claimed for up to $1,000 of pension income received each year.(72) The forms of pension income which qualify for the deduction vary depending on the age of the taxpayer. For taxpayers under 65, with one exception, only payments from a pension plan qualify for the $1,000 deduction. The deduction is available in the case of other forms of annuity income received by a taxpayer under the age of 65 as a result of the death of the taxpayer's spouse. In the case of taxpayers over 65, annuities under RRSPs, payments out of Registered Retirement Income Funds, annuity payments under DPSPs, annual instalments under DPSPs, and the taxable element of ordinary annuities qualify for the $1,000 deduction. The $1,000 deduction cannot be claimed on account of Old Age Security pensions, Canada Pension Plan payments, retiring allowances, or death benefits. In the case of ordinary annuities, a taxpayer over the age of 65 may choose to treat the taxable element of the annuity as pension income for the purposes of the $1,000 pension deduction or as interest income for the purposes of the $1,000 interest deduction.

2. A taxpayer who attains age 65 before the end of a taxation year is entitled to claim a special exemption, commonly known as the the age exemption.(73) Like the other personal exemption claims, this exemption is indexed to the cost of living; a deduction of $1,660 can be claimed in 1979. To the extent that the taxpayer does not require the deduction to reduce taxable income to nil, the portion of the deduction that is not required to reduce the taxpayer's taxable income to nil may be transferred to the taxpayer's spouse.

3. As indicated in the discussion of pension plans, a deduction may be claimed for amounts included in income from a pension

plan where the amounts in question are contributed within the year or within 60 days of the end of the year to another pension plan, an RRSP(74), or, within certain limits, a DPSP.(75) Similar relief is available in respect of amounts received from a DPSP(76) other than amounts received by way of a life annuity. In the case of RRSPs, a deduction may be claimed for amounts contributed to an RRSP on account of a refund of premiums received by the spouse of the annuitant.(77) A deduction is also available for amounts contributed to an RRSP or pension plan from Canada Pension Plan payments, Old Age Security Act payments, and retiring allowances received by the taxpayer.(78)

4. Forward averaging through the purchase of an income-averaging annuity is available in the case of the following amounts received by a taxpayer:(79)

   a) A single payment from a pension plan made upon the death, withdrawal or retirement from employment of an employee or former employee, upon the winding up of the fund or plan, or upon the amendment of the plan.

   b) An amount received by an employee upon retirement in recognition of long service other than an amount paid from a pension plan.

   c) An amount paid pursuant to a DPSP upon the death, withdrawal or retirement from employment of an employee or former employee, to the extent that the amount is required to be included in the recipient's income for that year.

   d) An amount paid to an employee or former employee upon or after retirement in respect of loss of office or employment where the payment is made in the year of retirement or within one year after that year.

   e) An amount paid to an individual as a death benefit, where the amount in question is paid in the year of death or within one year after that year.

   g) Any amount included in computing an individual's income on account of a refund of premiums under an RRSP upon the death of an annuitant.

   h) Amounts received upon termination of employment to the extent that they are required to be included in the income of the recipient.

   A taxpayer receiving these forms of income can claim as a deduction the amount used to purchase an income-averaging

annuity. Payments received under the annuity are then taxable in the year of receipt. In this manner, the taxpayer defers the payment of tax on the income in question and spreads the taxation of the income out over a number of years. Given the progressive rate structure of the income tax system, this effect will be beneficial where substantial amounts of income are involved. It is not possible to avoid tax on the entire amount of the income which qualifies for the purchase of an income-averaging annuity. An amount equal to one year's payment under the income-averaging annuity contract must be included in the taxpayer's income in the year he or she receives the income.

5. Retired taxpayers qualify for various provincial tax credits, as discussed in Volume I, Chapter 5. For example, in Ontario, a pensioner tax credit of up to $110 was available in 1979. The pensioner tax credit was available to taxpayers who were 65 years of age or older and resident in Ontario on December 31 of the year in question. In the case of married couples, both of whom are over 65 and living in the same principal residence, the credit could be claimed only by the spouse with the higher taxable income. If neither spouse had any taxable income, the credit had to be claimed by the spouse who was claiming the Ontario Property Tax Credit. The various Ontario tax credits were reduced by an amount equal to 2 per cent of the taxpayer's taxable income. (These credits were replaced for pensioners in 1980 by a universal system of payments to those 65 and over).

As we indicated in our discussion of pension plans, RRSPs and DPSPs, contributions to these plans within the limits set out in the Income Tax Act are deductible. The same approach has also been applied in the case of contributions to the Canada Pension Plan.(80) The principle appears to be accepted in our tax law that an individual should only be taxed on the portion of income which he or she sets aside for retirement when the individual actually receives that income, at least within the limits set out in the legislation. It has been suggested by some that the deduction allowed for Canada Pension Plan benefits is unfair since it benefits upper-income taxpayers more than lower-income taxpayers. Although, that appears to be the case, it is only true because upper-income taxpayers pay tax at higher rates. The same argument could be made with respect to all deductions.

<u>Single and Married Taxpayers</u>

Although there is no bias in the income tax system in favour of married as opposed to single taxpayers, it is clear that the system is designed with the traditional Canadian family in mind. Significant relief is provided to households with one major breadwinner supporting dependents.

The most important relief available to married taxpayers is the married status exemption. In addition, married taxpayers are entitled to claim certain exemptions to which their spouses are entitled but do not require to reduce their taxable incomes to nil.(81) The Ontario Tax Credit was often larger in the case of married taxpayers in that one element of the credit was a factor equal to one per cent of the taxpayer's total personal exemption claims, which would have been larger in the case of a married taxpayer supporting a spouse. In addition, the Ontario Tax Credit was reduced by two per cent of taxable income, which was likely to be lower in the case of a taxpayer entitled to the married status exemption.

When married taxpayers reach retirement age, the tax relief available to them becomes even more significant. The age exemption and the $1,000 pension deduction, which are available to taxpayers 65 and over, are among the exemptions which can be transferred from one spouse to another where the transferor spouse does not require the exemption to reduce his or her taxable income to nil. When taxpayers reach age 65, they begin to derive the benefits of income-splitting arising from contributions having been made by them to their spouse's RRSPs. Where a significant portion of the couple's retirement income is derived from an RRSP, the tax savings which result from this form of income-splitting may be very substantial.

A brief comparison of the tax position of a retired single taxpayer and a retired couple will illustrate the tax relief available to the married couple. Assume that two female taxpayers aged 66, one married and one single, each have a net income of $10,000 in 1979, exclusive of the Old Age Pension. Assume further that the husband of the married taxpayer is also 66 and has no income other than the Old Age Pension. Assume further that the Old Age Pension is $2,100 in 1979. Each taxpayer will be entitled to the personal exemption claim of $2,650, the age exemption of $1,660, the $1,000 pension deduction, and the $100 standard medical-charitable deduction. In addition, the married taxpayer will be entitled to claim her spouse's age exemption of $1,660 because he will not require it to reduce his taxable income to nil, and she will be able to claim approximately $660 on account of the married status exemption, as reduced by his income of $2,100 from the Old Age Pension. The spouse will receive the Old Age Pension free of tax by virtue of his own individual personal exemption. The married couple is likely to pay some $600 less tax than the single individual.

Many retired taxpayers who have very little income in addition to government pension plans will pay no tax at all and the tax system will obviously be neutral as between married and single taxpayers in this position. In these circumstances, the relative financial position of single and married taxpayers will depend entirely on the level of payments made by the various government bodies.

Protection Against Inflation

The indexing of personal exemption claims and rate brackets to the Consumer Price Index began with the 1974 taxation year. The effect of indexing personal exemption claims is to limit the expansion of taxable incomes which would otherwise occur as incomes rise in response to inflation. The indexing of rate brackets prevents taxpayers from being pushed into higher brackets as their incomes increase with inflation.

The effect of indexing has been dramatic. The basic personal exemption increased from $1,600 in 1973 to $2,650 in 1979; the married status exemption from $1,400 to $2,320; and the age exemption from $1,000 to $1,660. In 1979, a combined Federal and Ontario tax rate of 36 per cent began to apply when taxable income reached $14,922. In 1973, approximately the same rate of tax began to apply when taxable income reached $9,000. A rate of tax in excess of 50 per cent began to apply at a taxable income level of $24,000 in 1973, whereas in 1979 this level of tax began to apply when taxable income reached $39,792. The highest combined Federal-Ontario rate of tax (61.92 per cent in 1979) applied in 1979 when taxable income reached $99,480. In 1973, the top rate began to apply when taxable income reached $60,000.

In the case of retired taxpayers whose incomes generally do not increase in response to inflation, indexing has a somewhat different effect. Their taxable incomes decline as personal exemption claims increase, and their taxable incomes are subjected to progressively lower rates of tax each year as rate brackets rise.

A retired taxpayer over the age of 65 with a taxable income of $10,000 in 1973, whose spouse was also over 65 and had no income other than the Old Age Pension, would find in 1979 that the indexing of personal exemption claims had reduced taxable income by at least $2,370. (82) In 1973, the last dollar of income would have been subject to tax at a combined Federal-Ontario rate of tax of approximately 35 per cent, whereas in 1979 the rate would be approximately 27 per cent.

Although the effect of indexing has been significant in restraining the increase in taxable income and the rates of tax to which such income would otherwise be subject, many of the deductions provided for in the Income Tax Act are not subject to indexing. This is particularly true in the pension area. Although the age exemption is indexed, the $1,000 deduction for pension income, which was introduced in the 1975 taxation year, is not. The same is true of the maximum limits for contributions to pension plans, RRSPs, and DPSPs. There has been no change in the amount of the $1,000 pension deduction since its inception. In the case of the limits for contributions to pension plans, RRSPs, and DPSPs, the government has taken the approach of increasing the maximum from time to time to take into account the effects of inflation. The latest such increase took place in 1976 when the maximum deduction which could be claimed annually was increased from $2,500 to $3,500 in the case

of contributions to DPSPs and pension plans, and to RRSPs where the contributor is a member of a pension plan. At the same time, the level was increased from $4,000 to $5,500 in the case of contributions to RRSPs where the contributor is not a member of a pension plan. If the same policy continues, one would expect the $1,000 pension deduction and the maximum deduction which may be claimed for contributions to the various plans to be increased in the future. If indexing had been applicable to the pension deduction, it would have increased to $1,410 in 1979. Contribution limits applicable to various plans, if indexed since they were last changed in 1976, would have increased by 1979 to approximately $4,440 for contributors (including DPSP and RRSP contributors) who are pension plan members, and to about $6,970 for all other RRSP contributors.

At the administrative level the Tax Department has devised a formula restricting the maximum benefits which may be provided under a pension plan.(83) This formula was introduced in 1964 and revised upward in 1976. The upward revision did not compensate for the rate of inflation during the period. Presumably this formula might also be indexed.

Although private sector employers for the most part have not taken formal steps to index pension benefits to increases in the cost of living, some employers have taken steps on an "ad hoc" basis to increase pensions for retired employees to compensate for the effects of inflation. In some cases, increases are made within the framework of a registered pension plan. In that case the employer obtains the approval of Revenue Canada for the amendment. In other cases, employers have made payments directly to retired employees. Revenue Canada in Information Circular No. 72-13(R6) has indicated that a pension plan may provide for supplementary pension benefits in recognition of increases in the cost of living, provided that these benefits do not become payable before the later of the date on which the employee attains age 60 and the date of retirement or termination of employment. Any such supplementary benefits must be warranted by increases in the Consumer Price Index. For employers unwilling to make long-term commitments to provide indexed pension benefits, Revenue Canada is prepared to permit amendments on an annual basis to provide for inflationary increases. For a variety of reasons, not least of which is the administrative burden involved, some employers have opted not to make annual amendments to the pension plan, but rather to make payments directly to retired employees to compensate them for the effects of inflation. In these circumstances, the question has arisen whether these voluntary payments to retired employees are deductible by the employer for income tax purposes. It could be argued that no deduction is available because the expense in question is not incurred for the purpose of gaining or producing income from a business. A substantial argument can be made that the expenditure is a legitimate business expenditure because the morale of current employees is likely to be adversely affected if pensions to retired employees are inadequate. In any event, Revenue Canada is

unlikely to deny a deduction in these circumstances. Where the payments are clearly voluntary and cannot be classified as a retiring allowance, they would appear to be tax-free to the recipient.

Conclusion

In the Commission's opinion, it is essential that the federal and provincial governments co-ordinate their policies affecting retirement income in order to achieve common goals. In particular, income tax policy should work in concert with provincial policy for retirement income. In arriving at its majority recommendation for using income tax credits to achieve a measure of inflation protection, the Commission has noted some areas where changes in the income tax system should be considered.

The artificial demarcation at age 65, which creates two mutually exclusive categories - old and young - should be discarded. Or if any demarcation is made, it should be the time of actual retirement, above a minimum age such as age 60. The only basis for retaining an age exemption at all is an acceptance by society of enforced retirement at age 65 and presumably a reduced income by virtue of loss of the right to work. Since retirement can be at any age, a specified minimum age would be necessary to protect the income tax system and GIS against claims by those who chose to retire early on inadequate resources. The difficulties inherent in applying a retirement test have already been noted; therefore the Commission would prefer to see the complete abolition of age exemptions and instead exemptions or deductions based on need.

If we consider the effect of the age exemption, we find that income tax is imposed on all income defined under the act on a progressive basis until age 65. Thus the age exemption comes into play to reduce the tax payable regardless of need. For example, in 1978 the single person in Ontario age 64 would pay $516.50 more tax than the single person age 65 having the same income ($8,360.00). A married couple in Ontario, both of whom are under 65, would pay $922.40 more tax than a married couple, both age 65 and having the same income ($12,410). In the Commission's opinion, such benefits are not needed and constitute an unnecessary subsidy. The Commission supports the principle of increasing the basic personal exemption in line with inflation, since this is applicable for all taxpayers and reflects the need to curb the position of the government as a winner from inflation when taxes are levied on nominal increases in money. The age exemption, however, is also indexed to inflation and affords a protection regardless of need. The inflation tax credit proposed by a majority of the Commission would operate to assist those who need it and would satisfy that aspect of the age exemption.

The present deduction for pension income up to $1,000 should also be discarded. It is inequitable in that it benefits those who have arranged their affairs in such a way to have such pension income. Only about 50 per cent of the work-force has access to employment pension plans. Few taxpayers would have had the tax-paid dollars to purchase annuities prior to the advent of the RRSP. Even with an annuity from an RRSP, we find the anomalous situation that pension income is eligible for the pension deduction at any age, while income from an annuity purchased from an RRSP is not eligible for deduction while the taxpayer is under 65. The Commission endorses the principle of deduction for need and not because of the special status of either taxpayer or income. In our opinion the pension income deduction should be replaced by tax relief geared to need. The Ontario Tax Credit system, which operated to reduce the net credit as net income increases, was one method of achieving this goal.

The Commission also recommends as a general principle that all types of income be included for determining the need which society, through its various government programs, undertakes to satisfy. We would therefore include the following as income for eligibility measurement for the GIS and any inflation tax credit or other inflation protection: workmen's compensation pensions; war veterans' pensions and allowances, including widow's benefits; foreign pensions; and any allowances out of which basic needs can be satisfied, other than payments having the nature of capital.

It is not necessary in our view that these items also be included as income for tax purposes, since that might be unacceptable for traditional taxation reasons. There is no need to insist on consistency. The inclusion of these items is for eligibility purposes and would also serve to provide the Ontario government with more accurate information on actual income received by those 65 and over for policy-making purposes. However, we incline to the view that all income, including GIS, should be subject to income tax so that various exclusions working together will not provide a free ride for some and tax to be paid for others. A special deduction for GIS payments where net income does not exceed a designated amount could be used to prevent those at low levels of income from being taxed when GIS is included in income for tax purposes.

The Commission appreciates the complexity of the income tax system and the constant demands made for change to accommodate special interests. However, since the system is already being used for social policy implementation, it is important that retirement income goals are not inadvertently defeated by the system. The Commission therefore wishes to draw attention through its recommendations to areas where retirement income goals are being affected and where consideration should be given to more equitable principles in the use of the system.

ROLE OF TAX LEGISLATION

Income tax legislation provides various forms of tax relief with respect to the creation of a retirement fund and the taxation of pension income. Contributions to pension, RRSP and DPSP funds (within the limits set in the Income Tax Act) and contributions to the Canada Pension Plan are deductible for tax purposes. In effect, this defers the taxation of that portion of a taxpayer's income which is contributed to such a fund until the date of retirement. In addition, income from the various funds is not subject to tax. This permits a much more rapid accumulation than would occur if the funds in question were retained by the individual and the income from them taxed in his or her hands. Finally, tax relief is provided to retired taxpayers in the form of the $1,000 pension deduction and the age exemption.

The main goal of provisions creating a deduction for contributions to the various funds and providing for the sheltering of the income of the funds is clearly to assist taxpayers to create a fund to finance their retirement income. In the case of the registered pension plan, Revenue Canada has indicated that "its primary purpose must be to provide pensions in the form of life annuities. It must not be a scheme for diversion of profits or an employee's savings fund with the right of withdrawal during coverage."(84) Certain provisions in the legislation relating to pension plans, RRSPs and DPSPs are designed to prevent the use of these plans by taxpayers or employers to achieve other aims.

Non-Pension Uses of Tax Deferral Plans

For the most part, pension plans, RRSPs and DPSPs have been used to achieve their main purpose - the creation of a fund to finance a retirement income. However, the following examples show other uses which have been made of these plans:

1. Tax deferral: Taxpayers with substantial assets, who really do not require a separate fund to finance their retirement income, have used RRSPs to defer the payment of tax on a portion of their income. Presumably, the government does not object to this use of RRSPs since it tends to achieve a secondary goal of the legislation, the stimulation of savings.

2. The retention of employees: Both pension plans and DPSPs, because of the delayed vesting which is allowed under the legislation, have been used to encourage employees to remain with their employers or to discourage employees from leaving.

3. The creation of an investment fund: We are aware of at least one case where a group of taxpayers used the substantial balances in their RRSPs to provide a portion of the funds required to finance the takeover of a small public corporation. Nor-

mally, the balance in any single RRSP would not be sufficiently large to permit the use of the fund in this manner.

4. Corporate mergers and acquisitions: The CN pension fund was a major participant with Dome Petroleum Limited in the acquisition of Siebens Oil and Gas Limited. Other pension funds have also made investments in oil and gas properties. It may be that some corporations are able to achieve substantial tax savings because of the tax-exempt status of the pension fund. The assets controlled by a few of the largest pension funds in Canada are enormous; the question arises whether these funds will begin to pursue a more active role in the economy, and so may require further government regulation.

5. Leaving Canada: With any income deferral plan, the deferral will be translated into an actual tax saving at any time the rate of tax to which the taxpayer is subject are lower at the time funds are withdrawn than they were when the taxpayer made contributions to the plan. If a taxpayer leaves Canada at the time of retirement, the effective tax saving may be substantial.

   A taxpayer who becomes a resident of the United States or most other countries with which Canada has a tax treaty will be able to withdraw funds from an RRSP in a lump sum at a tax cost of 15 per cent. This is the level of tax which must be withheld from lump-sum pension-related payments under Canadian income tax law. When lump-sum withdrawals are made by residents of non-treaty countries, the withholding tax is 25 per cent. In most cases, where the appropriate procedure is followed, the lump sum will not be subject to tax in the country in which the taxpayer is resident.

   Under the Canada-United States treaty, a resident of the United States receiving a life annuity from Canada will not be subject to any form of Canadian tax on the annuity payments. As a result, a taxpayer who moves to the United States on retirement may withdraw funds from the RRSP free of Canadian tax by using plan funds to purchase a life annuity. The income element of each annuity payment would be subject to tax in the United States. The Canada-United States tax treaty is currently being renegotiated, and it is possible that this provision will be changed.

   Because a taxpayer can avoid tax on amounts received from a DPSP or registered pension plan by transferring them to an RRSP, taxpayers who retire outside Canada can obtain the same tax treatment for funds withdrawn from a DPSP or pension plan as is available for funds withdrawn from an RRSP. (It should be noted that the possibility and extent of withdrawal or

transfer from a pension plan depends on the terms of the plan and applicable pension legislation.)

The Commission is concerned about the effect on Canada's economy of a loss of capital encouraged through the tax system. Such a loss puts extra financial burdens on those remaining in Canada. The Commission urges consideration of these implications for tax treaties with other countries and in all situations where funds accumulated as a result of a Canadian tax-sheltered status may be diverted to other countries.

Roll-overs

If the main objective of favourable tax treatment is to be achieved, the extensive use of roll-overs among pension plans, RRSPs and DPSPs should be of concern to policy-makers. The coupling of withdrawal rights, roll-overs and the pension income deduction may encourage withdrawal from pension funds now and the destruction of future long-term benefits. For example, the younger employee who is not yet vested under a 45 and 10 rule may withdraw his own contributions and receive up to $1,000 of them tax-free. Leaving the money in the pension fund to secure contingent rights to employer contributions will not be an attractive alternative to cash. It would seem reasonable to limit the use of the pension deduction to ages at which payments from the pension plan are likely to be used for retirement income. A similar situation arises for those with early retirement rights when the pension deduction may be used to avoid tax rather than to exempt income from tax because it is needed as replacement income in retirement. Clearly a retirement test for eligibility for the pension deduction would be fraught with difficulty, but the use of an age minimum, such as 60 years, would maintain the pension deduction as it must have been originally contemplated, and also discourage the use of monies specifically set aside for pensions for short-run purposes.

The roll-over provisions also operate to allow persons who have "retired" early, such as athletes, armed forces personnel, and public servants, whose plans are designed for payments to begin well before the usual retirement age range of 60 to 65, to pay pension income into an RRSP free of tax. This allows retirement income to accumulate and increase while the recipient pursues another work career. To the extent additional income in retirement is being created, the tax shelter is reasonable. However, the RRSP should not be used as a device to shelter undue amounts of income. For example, retiring allowances may be rolled-over into an RRSP without attracting tax. There is no maximum on the amount of such retiring allowance, except that it must be a reasonable amount. The Commission is not aware of great numbers of persons taking advantage of such a roll-over or of any abuse therein, but urges authorities to monitor roll-over situations to prevent abuse. A limitation of a maximum percentage allowed to be rolled over in any year might be suitable.

However, it is clear that the government views the encouragement of savings as an important policy objective in itself. In the budget speech of May 25, 1976, the then Finance Minister, Donald Macdonald, commenting on tax deferral plans, indicated that "the government introduced these tax incentives to encourage Canadians to make provision for their retirement years and thus to to foster national savings." Surprisingly, discussions of the three plans in the 1950s and 1960s indicate that they were originally conceived partly as an "income spreading"(85) or averaging device. This was particularly true in the case of RRSPs.

The original contribution limit for pension plans appears to have been chosen arbitrarily. When RRSPs and DPSPs were introduced into the legislation, the contribution limits for these plans were defined in relation to the limits for contributions to pension plans. Increases in contribution limits for all three plans have taken place on an ad hoc basis in response to rising income levels and inflation. The limit for contributions to RRSPs by taxpayers who are not members of pension plans has traditionally been higher than the limit for those who are members of pension plans. This is in recognition of the fact that a taxpayer who is not a member of a pension plan is obliged to create a fund without the assistance of an employer, whereas a member of a pension plan presumably benefits from employer contributions.

The $1,000 pension deduction appears to have been created in recognition of particular problems faced by retired taxpayers, such as the inadequacy of retirement incomes and the fixed nature of many forms of retirement income in an inflationary setting. A minimum age of eligibility for the pension deduction would be consistent with that purpose.

Inflation Tax Credit

Since World War II the income tax system has come to assume a much greater role in the economic relationship between the citizen and the state. Although income tax legislation is used to achieve a number of other public policy objectives, its basic role has been to collect contributions from the individual citizen to the public coffers. However, since the introduction of the tax reform measures in 1972, some have suggested that the role of the Income Tax Act should be expanded to provide for payments from the state to certain classes of citizen. The term "negative income tax" has been used to describe measures of this nature.

For example, it has been suggested that a minimum "guaranteed annual income" be provided by way of such a negative income tax. Proponents of this approach have generally raised the following arguments in its support:

1. At present, direct transfer payments such as old-age security and family allowance payments are provided for the entire

population regardless of need. The income tax system, because of its capacity to determine an individual's income, could be used to provide benefits only to those in need of assistance.

2. It would be much more efficient to create an integrated system which would provide for the payment of all public assistance benefits, including family allowance payments, old age security payments, guaranteed income supplements, unemployment insurance payments, and spouses' allowances. The income tax system is the ideal vehicle for such an integrated system because of the information which it collects from taxpayers.

The negative income tax approach already appears in the Income Tax Act. For some time, the act has provided for various tax credits. Until recently, these tax credits did not give rise to actual payments to taxpayers; where the tax credit in question exceeded the tax payable by an individual, the difference was not refunded. However, four provinces have introduced tax credit systems which are "refundable" so that if the amount of the credit exceeds the tax payable by the individual, the difference is actually paid to him.(86) The refundable "child tax credit" announced by the Minister of Finance in the summer of 1978 was implemented immediately and began providing benefits to taxpayers with low and moderate incomes in the spring of 1979.

A majority of the Commissioners recommend that an inflation tax credit be adopted as an answer to the inroads of inflation on fixed retirement income. It is proposed that this tax credit be a refundable tax credit and be dealt with as negative income tax under the Income Tax Act. The Commissioners favour this approach for two basic reasons: it can be applied to all or most sources of retirement income; and it can be controlled on a needs basis. Administrative problems are discussed in Chapter 10. The Commission is satisfied that these problems can be solved if the provinces, which are responsible for social assistance programs, and the federal government are prepared to work together for the integration of social transfer payments.

RECOMMENDATIONS

By allowing deductions for income tax purposes to both employers and employees in employment pension plans, the federal government is in a strong position to control and direct the development of employment pension plans. It is important therefore that decisions made for tax policy reasons be examined for their effect on pension benefit policy, which is primarily within the control and direction of the province. It is within the power of the Government of Ontario to negotiate with the federal government to ensure a suitable balance between the respective taxation and pension policy objectives.

The Commission therefore recommends that:

The Government of Ontario should consider, with the federal government, common goals for retirement income provision through the interaction of federal tax policy and provincial social legislation.

Since the main goal of providing tax-sheltered funds is to finance retirement income, steps should be taken to curtail existing tax incentives for cash withdrawal from employment pensions before vesting.

Roll-overs of pension benefits and retiring allowances into RRSPs should be monitored to ensure that amounts in excess of reasonable retirement requirements are not thereby receiving tax shelter.

The Government of Ontario should consider, with the federal government, against the background of tax treaty negotiations, the effect on Canada's capital markets and trade balance of situations in which tax-sheltered funds from retirement income vehicles may be diverted to other countries.

The Government of Ontario should take steps to implement an inflation tax credit under the income tax system (one Commissioner dissenting) to afford some protection against loss of purchasing power through inflation, for all persons age 68 and over.

Government Programs

The Government of Ontario should seek amendment to the Income Tax Act (Canada) and make complementary amendments to the Income Tax Act (Ontario) and any other fiscal statutes, to base exemptions and deductions on a needs basis where these are now universal, and in particular to replace the present age exemptions and the present pension deduction by other forms of relief administered on a needs basis.

If the pension income deduction is to be retained, a minimum age should be adopted to avoid encouraging early retirement.

Income-tested tax exemptions and credits should take into account all income, in order to eliminate "double exemption."

Retirement Arrangements

The 20 per cent limit on RRSP contributions should be removed, and maximum contributions should be expressed in dollar amounts only.

Deductions by employers and employees for past service contributions to money-purchase plans should be permitted.

The Government of Ontario should seek amendment to the Income Tax Act (Canada) and make complementary amendments to the Income Tax Act (Ontario) and any other fiscal statutes to create a new type of locked-in pension vehicle to which transfer of funds from employment pension plans can be effected.

NOTES

Unless otherwise indicated, references are to the Income Tax Act, S.C. 1970-71-72, c. 63 as amended.

(1) Information Circular No. 72-28R2 dated January 23, 1978, and No. 72-13R6 dated January 21, 1980.

(2) S.C. 1957, c. 29, s. 17.

(3) S.C. 1960-61, c. 49, s. 26.

(4) Information Circular No. 72-13R6.

(5) Paragraph 8(1)(m).

(6) Sub-section 8(8).

(7) Paragraph 60(j).

(8) Paragraph 60(k).

(9) Sub-section 8(7).

(10) Paragraph 20(1)(q) and Section 2700 of the Regulations under the Income Tax Act.

(11) Paragraph 20(1)(r).

(12) Section 67.

(13) Information Circular No. 72-13R6, paragraph 9(g).

(14) Paragraph 20(1)(s).

(15) Paragraph 56(1)(a).

(16) Paragraph 60(j).

(17) Paragraph 60(k).

(18) Paragraph 61(2)(a).

(19) Paragraph 110.2(3)(b).

(20) Paragraph 146(1)(j).

(21) Section 89 of Bill C-57 an act to revise the Bank Act, to amend the Quebec Savings Banks Act, to establish the Canadian Payments Association and to amend other acts in consequence thereof.

(22) Section 146(2).

(23) Sub-section 146(5).

(24) Sub-section 146(5.1).

(25) Paragraph 60(j).

(26) Sub-section 204.1(1).

(27) Paragraph 146(4)(a).

(28) Paragraph 146(4)(b).

(29) Paragraph 146(9)(a).

(30) Paragraph 146(9)(b).

(31) Paragraph 146(10)(b).

(32) Paragraph 146(10)(a). The term "non-qualified investment" is defined in Paragraph 146(1)(e) as a property which is not a "qualified investment" which is in turn defined in Paragraph 146(1)(g).

(33) Section 206.

(34) As defined in Paragraph 146(1)(j) a "Retirement Savings Plan" must provide for the payment of a "retirement income" on maturity. The term "retirement income" is defined in Paragraph 146(1)(i.1).

(35) Transfers from RRSPs to "Registered Retirement Income Funds" are provided for under Paragraph 146(16)(c). A detailed code relating to Registered Retirement Income Funds is set out in Section 146.3.

(36) Benefits as defined in Paragraph 146(1)(b) are included in income under sub-section 146(8).

(37) Sub-section 146(8.8).

(38) Paragraph 61(2)(d).

(39) Paragraph 60(1).

(40) Sub-section 146(1)(h) and sub-section 146(8.9).

(41) Sub-section 146(8.8) and sub-section 146.3(6).

(42) Paragraph 146(2)(c. 2).

(43) Sub-section 146-3(6).

(44) Sub-section 146(8) and sub-section 146.3(5).

(45) Paragraph 146(1)(h) and sub-section 146(8.9).

(46) Sub-paragraph 110.2(3)(a)(ii).

(47) Paragraph 147(1)(a).

(48) Sub-section 147(2).

(49) Information Circular No. 77-1R2 dated May 20, 1980, Paragraph 6.

(50) Subsection 147(8).

(51) Sub-section 204.1(3).

(52) Sub-section 147(7).

(53) Qualified investments for a DPSP are set out in Paragraph 204(e).

(54) Paragraphs 147(2)(c) and (d).

(55) Sub-section 147(18).

(56) Sub-section 147(10).

(57) Paragraph 147(2)(k).

(58) Paragraph 60(j).

(59) Sub-paragraph 61(2)(a)(iv).

(60) Paragraphs 110.2(3)(a) and (b).

(61) See H. Weitz, "Contributors and Contributions to Registered Retirement Savings Plans in Ontario," (in Volume VIII) Tables 12, 13, and accompanying text.

(62) Information Circular No. 72-13R6, Paragraph 6(b).

(63) Information Circular No. 72-13R6, Paragraph 9(g).

(64) Paragraph 56(1)(a).

(65) Paragraph 110(1)(f).

(66) Section 248.

(67) Paragraph 81(1)(h).

(68) Paragraph 6(1)(f).

(69) For a discussion of the jurisprudence relating to damages for wrongful dismissal, see David Harris, Wrongful Dismissal (Toronto: Richard De Boo Limited, 1978), pp. 22-45.

(70) Paragraph 16 of the Notice of Ways and Means Motion to amend the Income Tax Act.

(71) Sub-section 15(1) of Bill C-37.

(72) Section 110.2.

(73) Paragraph 109(1)(h).

(74) Paragraph 60(j).

(75) Paragraph 60(k).

(76) Paragraphs 60(j) and (k).

(77) Paragraph 60(l).

(78) Paragraph 60(j).

(79) Paragraphs 61(2)(a),(b),(c), and (d).

(80) Paragraph 8(1)(l).

(81) The age exemption, the $1,000 deduction for investment income, the $1,000 deduction for pension income and the deduction for blind persons and persons confined to bed or a wheelchair.

(82) The basic personal exemption has increased by $1,050, and the exemption has increased by $660. He will be entitled to claim his wife's age exemption as well as his own. The amount he will be entitled to claim on account of the married status exemption will also have increased.

(83) Information Circular No. 72-13R6, Paragraph 9(g).

(84) Ibid., Paragraph 6(b).

(85) A.K. Eaton, "Registered Retirement Savings Plans," Canadian Tax Journal, 3(1957): p. 180.

(86) Alberta and British Columbia have a rental assistance tax credit, Manitoba has a property tax credit. Ontario has a property tax credit and a sales tax credit; in 1980 these were replaced for those 65 and over by a universal payment arrangement. Ontario also has a political contributions tax credit.

Chapter 15

Retirement Age

When discussing pensions and retirement income, it is necessary to consider the time of retirement. In the recent past, retirement has been tied to a chronological age, deemed by society to be age 65. It is the age when a person is no longer expected to work, government retirement income programs begin, and retirement might be forced. This last element of compulsion has turned the question of retirement age into the emotion-charged civil rights issue of mandatory retirement and age discrimination. The civil rights emphasis is perhaps peripheral to the entire question of the time of retirement and support in retirement but is at the centre of public debate. In conjunction with resistance to forced retirement is growing support for early retirement. This chapter examines the question of retirement age as presented to the Commission. It also assesses the ramifications of postponed retirement and early retirement for pension planning.

BACKGROUND

Prior to 1978, there have been two major Canadian studies on retirement - the Department of Health and Welfare 1977 survey of 3,011 persons age 55 and over, and an ongoing longitudinal study of aging and perceptions of retirement by the Ontario Ministry of Community and Social Services. (These are described by Dr. Kubat in the background papers.) In addition, the Commission's Consumer Survey and the 1979 Study of American Attitudes toward Pensions and Retirement deal with retirement age.

Age of Retirement

Retirement tends to occur around age 65. The Health and Welfare Study showed that 60 per cent of 65-year-old-men, and 75 per cent of

women of the same age were retired.(1) Reasons given for retirement included compulsory retirement (29 per cent of men and 11 per cent of women) and poor health (34 per cent of men and 38 per cent of women).

Income and health are two factors crucially important to the timing of retirement and the desire to retire. In addition, health and income are related - the higher the income the better the health, and vice versa.(2) The Health and Welfare Canada Study showed the following:

Table 1
Reasons Invoked by Retirees for Retiring, by Occupation, Canada, 1975

	Administrators, professional, technicians	White collar	Blue collar	Blue collar (primary)
	(Per cent)			
Men				
Compulsory	46.9	26.4	36.3	5.1
Health	11.4	30.3	37.6	42.4
Lay-off	3.6	4.8	10.2	2.0
Other	33.4	36.8	15.9	45.3
Women				
Compulsory	24.9	12.7	1.6	
Health	24.5	38.8	41.9	
Lay-off	2.1	2.3	7.3	
Other	38.7	37.4	42.0	

Source Health and Welfare Canada, Retirement in Canada, Volume I, p. 33.

The Commission's Consumer Survey showed that 25.4 per cent of retired respondents had retired at age 65, and 29.2 per cent had retired between ages 61 and 64. Of retired respondents, 79.9 per cent had retired by age 65. The survey asked all active respondents when they plan to retire. Only 3.9 per cent plan to retire over age 65; 15.6 per cent at age 65; 15 per cent between ages 61 and 65; and 51.7 per cent before age 65. More than half of the retired respondents (56.2 per cent) were satisfied with the time of their retirement, while 19 per cent felt they should have retired later and 16.9 per cent thought they should have retired earlier. Our survey confirmed that reasons for retiring or continuing to work centred mainly around health and financial position.

A recent U.S. study showed that the median age for retirement preferred by current workers was 60.2, or roughly the same as the actual

median age of retirement among retirees. It found that 26 per cent of employees preferred to retire at normal retirement age from their employment, 22 per cent before normal retirement age, and 51 per cent preferred to continue with some type of employment.(3)

The Early Retirement Trend

Participation in the Canadian labour force by men 65 and over has been declining over the last 25 years. In 1955, 31 per cent of males 65 and over were employed; by 1975, the number had decreased to 16 per cent.(4) This trend is reinforced by the lower labour-force participation of men aged 55 to 64.(5) The Economic Council of Canada in its report, One in Three ("Council Report"), distinguishes between the long-term decline in the average age of retirement and the reasons for retiring before or after age 65. It concludes that long-run decline in labour force participation seems counter to the lengthening of life expectancy and probably reflects general factors such as rising income levels. The Council found that the likelihood of individuals retiring before age 65 increases with the level of retirement income. It also found the likelihood of retiring because of health reasons decreases with the level of retirement income and of retiring early is much greater for those with high retirement incomes than for those with low retirement incomes.

The preference for early retirement is clear. In the Health and Welfare study, active men favoured retirement before age 65 (71 per cent) or at age 65 (21 per cent), with only 9 per cent favouring retirement after age 65. Active women favoured retiring at or before age 60 (77 per cent). Most retired respondents were satisfied with their time of retirement.

The trend towards earlier retirement is expected to continue for at least another decade, according to James Pesando, whose background paper, "Trends in Retirement Age and Implications for Pension Planning: An Economic Analysis" appears in Volume IX and will be cited later in this chapter.

Retirement Age in Pension Plans

Pension plans provide for a "normal retirement age" - the expected age most employees will retire and receive the normal unreduced pension. Plans may provide for a compulsory retirement date, which may be the same as the normal retirement age and may also provide for an early retirement date when an employee may retire on a reduced pension.

The age of 65 has always been the most widely accepted normal retirement age under private pension plans.(6) In 1978, 85.8 per

cent of all plans in Canada covering 74.4 per cent of total membership provided for normal retirement at age 65. More than 93 per cent of men and 85 per cent of women in the private sector were in plans that had a normal retirement age of 65, compared with 58 per cent and 60 per cent in the public sector.

Nearly all plans (97 per cent) covering 96 per cent of total membership in Canada, exclusive of plans that limited early retirement to cases of disability, provided for early retirement on a reduced pension.(7) The most common condition for early retirement (38 per cent of plan members) was completion of a period of service and an attained age, such as age 55 and 10 years of service.(8) The pension was actuarially reduced for 41 per cent of the membership and a formula reduction was used for the remaining plan members. The most common formula was a reduction of 1/2 of one per cent per month by which early retirement preceded normal retirement age.

In 1978 the age of 65 was the normal retirement age in Ontario for 91 per cent of members in the private sector. In the public sector age 65 was the normal retirement age for 51 per cent of members, and age 60 for 22 per cent.

Table 2 shows the incidence of early retirement provisions in pension plans. Few plan members are in plans without an early retirement provision.

Table 2
Early Retirement Provisions in Pension Plans by Sector, Ontario, 1978

	Public sector		Private sector	
	Members	Per cent	Members	Per cent
Early retirement at				
Employee's option	239,845	37.0	377,245	36.9
Employer's option	49,363	7.6	22,236	2.1
Mutual consent	337,015	52.0	531,918	52.1
Other	19,778	3.0	46,710	4.5
No provision	2,013	.3	42,774	4.1
Total	648,014	100	1,020,883	100

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 3 shows the formulas used to provide an early retirement pension in Ontario.

Table 3
Pension Payable on Early Retirement, Ontario, 1978

Formula	Members	Per cent
Actuarially reduced pension	708,689	43.7
Accrued pension reduced by a per cent per month by which early retirement precedes normal retirement age		
0 - .24	1,083	.1
.25 - .49	218,921	13.5
.50 - .74	193,332	11.9
.75 and over	2,042	.1
sub-total	415,378	25.6
Other	499,313	30.8
Total	1,623,380	100

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

The Legal Context

Legal limitations relating to mandatory retirement or dismissal on grounds of age are found in Ontario human rights legislation, which prohibits discrimination on account of age between ages of 40 and 65. Thus an employer may discriminate because of age alone if the employee is age 65 or more. The origin of such legislation was the Ontario Age Discrimination Act which became effective on July 1, 1966.(9) This Act provided that an employer could not refuse to hire or continue to employ any person because of age, and age was defined as over 40 and less than 65 years. (In the Ontario public sector, the Public Service Act, R.S.O. 1970, c. 386 requires retirement at age 65, unless reappointed for a year at a time until the age of 70 in special circumstances.)

The protection on account of age was incorporated into the Ontario Human Rights Code in 1972.(10) Thus age discrimination in employment practices is prohibited between ages 40 and 65.

Legislation prohibiting discrimination in employment practices on account of age exists in British Columbia (ages 45-65),(11); Alberta (ages 45-65),(12); Manitoba,(13); New Brunswick (age 19 and over),(14); Prince Edward Island (ages 18-65),(15); Newfoundland (ages 19-65), (16); Nova Scotia (ages 40-65),(17); and Canada.(18) A private member's bill, "The Age of Retirement Act 1978," has been introduced in Ontario to ensure that no person shall be required to retire before reaching the age of 70 if the person is willing and capable of performing his or her job. This bill has not been enacted.

There are exemptions from the prohibition for bona fide occupational qualifications and in certain pension plan and employee benefit matters. The prohibition in Ontario against discrimination on account of age does not apply to:

a) the exclusion of an employee from participation in a pension plan where the plan requires a minimum age for access;

b) a provision in a pension plan limiting the maximum age of an employee for access to a plan where the normal pensionable age is under 65 years;

c) benefits differentiating on account of age if in accordance with the Pension Benefits Act;

d) rate of contribution differentiating on account of age if they are voluntary additional contributions, in defined contribution plans and in defined benefit plans if in accordance with the Pension Benefits Act and determined on an actuarial basis.(19)

Dramatic changes have occurred in the United States. Effective January 1, 1979, the U.S. legislation eliminates mandatory retirement at age 70 for federal government workers and raises the age of protection five years to age 70 in age discrimination legislation. The law exempts companies with fewer than 20 employees, permits age standards tied to certain jobs, such as air traffic controllers, and exempts those who would receive a pension of $27,000 or more annually, paid for by one employer. The law exempts tenured college and university professors until 1982 when the ceiling of 70 years will apply. It also exempts situations governed by collective bargaining agreements until January 1, 1980, or the expiry of the contract. There is no requirement that pension benefits continue to accrue to those who decide to continue to work.(20)

Pension Plans and Mandatory Retirement

A recent study by the Conference Board in Canada in a survey of 222 employers with a total of 1.4 million employees found that the presence of a private pension plan was almost always associated with a policy of mandatory retirement. Of the 206 respondents with a pension plan, 198 (96 per cent) also had a mandatory retirement policy. Of these, 81 per cent of the pension plans had a clause which required employees to retire at a fixed age, usually 65. Although a mandatory retirement policy might be independent of the requirement of a pension plan, pensions and mandatory retirement were closely linked.(21)

U.S. studies also show that the existence of compulsory retirement is closely related to participation in a pension plan. The incidence of compulsory retirement has increased with private pension coverage.(22)

While there is declining labour force participation at older ages, the Commission has noted increasing support for the right to be able to continue to work after age 65. The Special Senate Committee on Retirement Age Policies in its 1979 report, Retirement Without Tears ("Senate Report"), found that mandatory retirement based on age involves an infringement of human rights, economic waste, and misconceptions about the relevance of age. The Senate Report recommended the progressive abolition of mandatory retirement and a policy of flexible retirement.

The Senate Committee recommended:

1. that the progressive abolition of mandatory retirement based on age become a general policy

    a) by amendments to the rules governing public servants and employees of companies under the jurisdiction of the federal government;

    b) by similar action with respect to provincial and municipal public servants;

2. that the mandatory age of retirement be increased one year at a time for five years by amending pension plans or retirement rules or conventions and that at the end of five years the concept of mandatory retirement at a particular age be abandoned completely;

3. that all human rights legislation be reviewed to eliminate any loopholes which permit age discrimination because of employee benefit and similar plans;

4. that a policy of flexible retirement become the standard for both public and private enterprises;

5. that amendments to both federal and provincial human rights legislation be sought at the earliest opportunity to minimize the possibility of discrimination based on age.

The Ontario Human Rights Commission in its 1977 report recommended that: "age be a prohibited ground of discrimination in all sections of the Ontario Human Rights Code and that its definition be expanded to encompass all persons eighteen years of age and over." The Human Rights Commission felt that "pension plans could be pegged to age 65. People who wish to continue working beyond that age could make individual arrangements with their employers. Or the plans could be worked out that are not tied to an arbitrary retirement age."(23)

Among the groups recommending the abolition of mandatory retirement to the Commission were: Canadian Union of Public Employees, Ontario Division (Brief 101), Ontario Advisory Council on Senior Citizens (Brief

154), Canadian Institute of Religion and Gerontology (Brief 174), Ontario Nurses Association (Brief 197), Ontario Welfare Council (Brief 194),(24) Council on Aging (Brief 200), Housser & Company Limited (Brief 211), Ontario Federation of Labour (Brief 221), Ontario Hydro (Brief 299), and the Consumers Association of Canada (Brief 311).

Among those in favour of retaining mandatory retirement, at least for the present, are: The Professional Institute of the Public Service of Canada (Brief 175), Actuate Financial Consultants Limited (Brief 240), Ontario Professional Fire Fighters Association (Brief 266), and Imperial Oil Limited (Brief 289). The Canadian Life Insurance Association (Brief 1) was neutral, and the Canadian Pension Conference (Brief 224) requested long-term implementation.

In the Consumer Survey, 61 per cent of respondents in the labour force and 53 per cent of retired respondents supported amending the Human Rights Code to eliminate mandatory retirement at age 65; most of these (78 per cent of those in labour force and 83 per cent of retirees) not wishing any upper age limit.

The Commission recognizes the existing pressures for a flexible retirement age and takes no position on the elimination of mandatory retirement as such. To assist legislators in making decisions about retirement age, we will present the implications of both early retirement and postponed retirement.

THE IMPLICATIONS FOR PENSIONS

Employment Pensions

Issues affecting retirement age are compounded by the nature of defined benefit plans. As we have seen, defined benefit plans operate on group insurance principles to first promise and then guarantee a certain income for life at retirement. Thus the plan design involves an estimate of how long to accrue and fund the benefit and fixes a retirement age. In a defined contribution or money-purchase plan, one buys an annuity with the monies accumulated to the point of retirement. Flexibility in determining retirement age is easier in a defined contribution plan.

Postponed Retirement

The major effect on pension plans of postponed retirement would be in the area of pension design. Several matters have been brought to our attention involving the design of defined benefit plans. An age will have to be picked to which benefits accrue. In pension planning this is the normal retirement age, usually age 65. This need not change if there is an actuarial adjustment for early and late retirement. However, Revenue Canada does not allow a pension to be postponed after

age 71; nor does it permit benefits to accrue after age 71 or to be actuarially adjusted upwards for retirements after that age. These rules may require revision if later retirement becomes more prevalent and accrual of benefits is denied.

Second, if there is no actuarial adjustment for postponed retirement, actuaries will be required to develop various retirement age assumptions. Pension costs would decrease without such actuarial adjustment because the employee is paying longer for the same pension. Professor Pesando states that if no actuarial increases in other forms of the compensation package were made, a strong deterrent to increased work after normal retirement age would be created, and the motivation for eliminating mandatory retirement would tend to be thwarted.(25)

Third, in insured plans if there is no accrual past age 65 where units of pension have been bought at age 65 and one postpones retirement, some money may be required to be credited back. U.S. law does not require that pensions be actuarially increased, but it is now proposed to require defined benefit plans to credit, for purposes of benefit accrual, years of service which occur after normal retirement age.

Fourth, if older workers are transferred to less taxing jobs or are encouraged to work part time, the final average earnings formula, based on, for example, the last five years' earnings, may have to be modified to formulas such as the best five of the last 10 years of service.

Finally, a problem may arise with regard to discrimination among employees because of postponed retirement. If pension contributions are not required past age 65 and are required for those before age 65, to employ those over 65 may cost less. In the CPP, a person can defer the retirement pension to age 70 with the result that contributions may be made to obtain a higher pension. The United States is now considering changing the law to prohibit the exclusion from pension plans of employees hired within five years of normal retirement age.

Early Retirement

Turning from postponed retirement to early retirement, the principal effect on pensions is in the area of cost. Just as postponed retirement without actuarial adjustment decreases pension costs, early retirement without actuarial adjustment increases cost. First, the earlier people retire, the longer they will need retirement income. Second, the problem of inflation becomes greater because the purchasing power of a pension will be eroded in times of high inflation. The cost depends on the benefit formula in the pension plan and also on whether the cost is expressed as a single payment or as level payments over the working lifetime of the employees.

If the pension payable on early retirement is the actuarial equivalent of the pension earned for service to retirement date, the cost of

early retirement is theoretically nil. In the following calculations we assume that the early retirement pension is derived from the benefit formula of the plan without actuarial or other adjustment.

Table 4 compares the cost of early and late retirement, using a number of different interest rates and current mortality assumptions. The table uses a pension cost index of 100 at age 65 and compares with that cost index the cost of providing the same dollar amount of pension at other ages. The calculations ignore the possible existence of death benefits payable on death before or after retirement.

Table 4
Early and Late Retirement Factors - Cost of Fixed Pension Benefit (Relative to Retirement Age 65 = 100)

	Retirement age	Interest rate					
		5	6	7	8	9	10
	(Number)	(Per cent)					
Males	50	349.49	390.73	437.79	491.32	552.26	621.27
	55	241.26	259.80	280.14	302.37	326.68	353.14
	60	159.85	165.87	172.23	178.89	185.92	193.25
	65	100.00	100.00	100.00	100.00	100.00	100.00
	70	57.70	55.59	53.54	51.54	49.62	47.74
Females	50	297.08	331.90	371.82	417.47	469.55	528.84
	55	213.56	229.78	247.66	267.30	288.83	312.36
	60	149.15	154.67	160.52	166.70	173.21	180.04
	65	100.00	100.00	100.00	100.00	100.00	100.00
	70	63.21	60.97	58.77	56.63	54.53	52.48

Mortality: GA 71
Formula: $D_x\bar{a}_x \,/\, D_{65}\bar{a}_{65}$
Source Laurence Coward

Table 4 shows, for example, that using a 5 per cent interest assumption, a reduction in retirement age for males to 60 from 65 would add 59.85 per cent to pension costs. Similarly, an increase in retirement age to 70 from 65 would reduce the pension cost by 42.3 per cent using the same assumption. Note that Table 4 does not show the amount required at age 60 to buy a pension starting at age 60 as a percentage of the amount required at age 65 to buy a pension commencing at age 65. Table 4 shows the ratio of the amounts required at the same time to purchase pensions beginning at age 60 and 65.

The cost figures quoted in Table 4 assume that the amount of pension in dollars provided at the different ages remains the same. Most private pension plans provide a defined unit of pension benefit for each year of service. If the retirement age is reduced or increased, the members will have fewer or more years of service and therefore lower or higher dollar amounts of pension. For example, an entrant at age 30 who retires at age 60 would have 30 years of pensionable service, but one who retires at age 65 would have 35 years. Thus the pension at age

60 would be 30/35ths of the pension at age 65. The ratio of 59.85 per cent mentioned above would be reduced to 37.01 per cent. Similarly, an increase in retirement age to 70 from 65 would reduce pension costs by 34.1 per cent if allowance is made for length of service.

The lump-sum costs of pension benefits are usually of less concern to the employer than the annual costs that must be paid while the employee is working to finance his pension. Table 5 compares the rates of contribution required for various retirement ages with the assumption that the pension is a fixed amount for each year of service. This table shows, for example, that for a male whose service starts at age 30, using a 5 per cent interest assumption, the annual cost of providing a pension of 30 units at age 60 is 44.81 per cent higher than the annual cost of providing a pension of 35 units at age 65. For such a person, the cost of a pension of 40 units at age 70 is 36.47 per cent lower than the cost of a pension of 35 units at age 65.

Table 5 is thus applicable to a simple type of flat benefit plan when the pension is strictly proportionate to length of service. When pensions are related to salary, the costs depend on the salary history of the employees as well as the plan formula and the various plan updatings.

Table 5
Early and Late Retirement Factors - Annual Cost of Pension Benefits Proportionate to Service
(Relative to Retirement Age 65 = 100)

	5	7	9
		(Per cent)	
Service starts at 20			
Retirement at 50	266.24	317.62	388.13
55	201.93	227.73	260.82
60	146.49	155.80	166.90
65	100.00	100.00	100.00
70	62.78	58.83	54.82
Service starts at 30			
Retirement at 50	257.40	301.46	361.56
55	197.37	220.08	249.22
60	144.81	153.20	163.31
65	100.00	100.00	100.00
70	63.53	59.79	55.92
Service starts at 40			
Retirement at 50	247.12	282.81	330.58
55	191.95	210.92	235.11
60	142.75	150.00	158.74
65	100.00	100.00	100.00
70	64.49	61.05	57.42

Mortality: GA 71
Formula: $[(R-E) x N_R / N_E - N_R)] \;/\; [(65-E) x N_{65} / (N_E - N_{65})]$
Source Laurence Coward

The benefits provided by employment pension plans are generally linked in some way to the level of final average earnings while the employee is in active service. The linkage may be explicit in plans based on final average earnings; it may be implicit in plans based on career average earnings or flat dollar amounts since such plans are usually upgraded periodically to reflect current earnings levels. Assuming that inflation continues, if the retirement age is reduced or increased, the earnings base used in the pension calculation will be lower or higher (respectively) than if no change had been made. Although this may initially appear to produce a reduction in cost if the retirement age is reduced, any such reduction is likely to be offset by the cost of any indexing provided to compensate for inflation after retirement (if the indexing begins with early retirement). Similar arguments can be made on the apparent decrease in cost if retirement age is increased.

The current practice of many employers in the area of early retirement is to adopt or introduce into their pension plan different forms of "subsidized" early retirement, for example, allowing plan members to retire early, with an immediate pension which has a greater actuarial cost than their accrued pension payable at normal retirement. The subsidy may take the form of smaller reductions in the accrued pension than would be actuarially necessary, or no reduction after a certain age, a certain period of service or a combination of age and service. In addition, some form of "bridging" benefit may be paid between early retirement and age 65 as a temporary replacement for government benefits which are not payable until then.

These features have been introduced both as a result of union pressure and unilateral action by employers. Pension costs therefore have been increased, depending on the extent the subsidized early retirement provisions have been used. However, because of recent higher rates of inflation and the shortage of secondary part-time jobs which would be attractive to such early retirees, the use by employees of subsidized early retirement provisions has been lower than was originally anticipated. As a result of the lower utilization and the greater opportunities provided to retire older non-productive workers early on a reasonable pension, most employers seem to have accepted the additional cost of subsidized early retirement without undue alarm. There is a risk that pension costs will be greatly increased at some future date when large numbers of employees elect to retire early.

Professor Pesando found evidence that employees ultimately will bear a large portion of any increase in costs as a result of early retirement. He also noted other implications. First, the cross-subsidies implicit in defined benefit plans are likely to be accentuated as those who opt for early retirement earn a higher implicit rate of return on their pension contributions. Second, there will be increased pressure to lower the age of entitlement to government benefits which is discussed in the next section. Third, the availability of unreduced

benefits imposes an effective tax on the earnings of those employees who do not elect early retirement. A deterrent to the exercise of the early retirement option is fear about the effect of high inflation.

Government Programs

A most important issue relating to retirement age is the effect of early or postponed retirement on the design of government retirement income programs and benefits. At present, the age of 65 is the qualifying age for most retirement benefits, except the Spouse's Allowance program, which is paid at age 60 to spouses of Old Age Security pensioners. Age 65 has developed as a notional age of retirement, whether or not it reflects individual preferences. Two broad questions arise. Should benefits commence at age 65 if one has postponed retirement and should benefits commence earlier if one has retired earlier? A truly flexible system would adjust both ways, but this may not be equitable. For example, all persons over 65 obtain free prescription drugs in Ontario. This is an age-related benefit that is provided whether one retires or not. There would be an inequity if free drugs were given merely because one retires. Defining who is retired is not simple. One may be retired from one career and beginning another; one may be retired from a main occupation and yet continue with other employment; and housewives may never "retire." If retirement is the determining factor, a test would have to be developed to decide who is retired, for example, by limiting the amount of earnings one is permitted and in order to qualify for benefits. An earnings or retirement test is based on the philosophy that one group of workers ought not to subsidize another group of workers. It also ensures that benefits are paid when one withdraws from the work-force. A 1974 survey of social insurance in more than 100 countries found that 80 per cent of the systems had some form of retirement test.(26) In the United States, the social security program provides for deductions from benefits payable before age 70 if a recipient has earnings above a certain level. That provision is criticized, however, for taking into account earned income but not other forms of income.(27) To replace an earnings test with an income test would mean, of course, that the purpose of social security as a replacement of earnings from work would have to be redefined in terms of income maintenance, or welfare.

In Canada, the retirement and earnings tests were removed in 1975 for Canada Pension Plan benefits and in 1977 for Quebec Pension Plan benefits. There is a full discussion of the earnings test in the CPP in the Canada Pension Plan volume of this Report. In Canada, CPP benefits may be seen to be "earned" because they were contributed in the past and are payable whether a person works after age 65, rather than as "insurance" - where benefits are payable when the insured risk occurs, that is, the risk of not working. The Old Age Security pension is paid at age 65 regardless of earnings. Once the retirement pension is claimed, no further contributions are made to the CPP, even if one continues to work. A CPP contributor may continue to work and not claim

the pension, with the possible result of increasing the amount of the CPP retirement benefit.

Professor Pesando has examined the alternatives of raising the age when one receives social security benefits and of introducing an income test for OAS and CPP benefits. He concludes that each of these serves as a tax on those who continue to work after age 65 and would be a strong incentive not to remain in the labour force. On the other hand such measures would relieve the tax burden. He states that providing an actuarial increase to those postponing retirement would be costless and a clear signal of the government's intention to encourage work by those aged 65 and over.

Except for the demand for an actuarial increase if one postpones receiving benefits and does not continue to make CPP contributions, postponed retirement does not pose any major problem to public programs. Greater pressures for change are likely to be exerted by demands for early retirement. There is a stronger argument for actuarially reducing the benefit and paying it before age 65 because such reduction will tend to serve those retiring because of ill health and will also assist a slightly younger spouse to obtain reduced benefits when the older spouse retires before age 65. Working will probably augment pension income in any event.

At present, a worker who retires at age 62 must wait three years to obtain OAS and CPP benefits. There is no provision for paying CPP retirement benefits or OAS benefits before age 65. Some private pension plans provide "bridging supplements" or temporary pension payments to cover part or all of the amount to be payable from government sources at age 65. Unless the early retirement provisions in a private plans are "bridged," the decision to retire early is dictated by other individual factors, such as health and income. As the Commission's sociologist found, people prefer an earlier to a later retirement if benefits are constant, but they also prefer a higher income even at the cost of delaying retirement.

Although extended life expectancy is an argument in favour of increasing the age when retirement income from public programs becomes available, the trend to early retirement is pronounced. The public supports early retirement, and in fact most people are retiring before age 65. Registered retirement savings programs provide that an annuity may commence as early as age 60.

In his study for the Commission, Pesando has observed that the availability of social security at age 65 has provided an incentive to earlier retirement for those who might otherwise have worked beyond age 65. He refers to studies which show that an increase in the value of social security entitlements encourages workers to retire at an earlier age. Thus, lowering the basic age of entitlement would encourage earlier retirement.

A second major reason for not lowering the basic age of entitlement is the obvious cost involved, because benefits are paid over a longer period. This cost might be reduced by income-testing OAS and perhaps CPP; but Pesando found that this would unambiguously discourage work beyond the basic age of entitlement. Such reduction in work translates into a lower tax base to which benefits are ultimately tied.

If the basic age of entitlement is not lowered, the question arises whether Canada Pension Plan retirement benefits and Old Age Security pensions should be paid between age 60 and 65 on an actuarially reduced basis. Since some groups of workers have shortened life expectancies and some individuals have health problems, which may shorten life expectancy, it appears equitable to permit the earlier take-up option. In addition, poor health is one of the chief reasons for early retirement. Furthermore, the costs would be the same if there were an actuarial reduction. However, this provision would also be available to workers regardless of the reason for early retirement. This may not be as tempting as it first appears, because the basic retirement benefit of the CPP rises each year. For example, the worker who retires in 1981 will have a higher initial starting pension than one who retired in 1980. Because basic pension benefits are based on the YMPE, which is rising each year, the CPP operates like a final average earnings plan. As long as the salary on which the pension is based continues to rise, benefits increase by prolonging retirement up to the maximum permitted.

The maximum initial monthly retirement pension for selected years is:

1976	$154.86
1977	173.61
1978	194.44
1979	218.06
1980	244.44

A person whose CPP pension commenced in 1976 would have received annual increments based on increases in the Consumer Price Index; but, as explained in Chapter 10, YMPE escalation is based on average wages and so includes a productivity factor as well as an inflation factor. Each year retirement is postponed therefore gives the individual the advantage of another year's productivity improvement, reflected in a higher initial monthly pension.

To postpone a CPP retirement pension also affords an opportunity for a worker, through further contributory earnings, to compensate for some previous periods of low or no earnings (i.e., periods not covered by the automatic 15 per cent "drop-out" provision).

While an actuarial reduction would not theoretically cost the program more, there would be a profound impact on various other government programs. There would be pressure exerted to make available the

income-tested programs, such as GIS, as well as other benefits such as free OHIP coverage and free drugs. In addition, as Pesando points out, lower OAS and CPP benefits would result in more persons qualifying for income-tested benefits. There would be a greater need for GIS and GAINS not only at early retirement if reduced OAS/CPP benefits were too low, but also in later years if the reduced benefits became insufficient to live on even with the present indexing formula.

CONCLUSION

There is no magic in age 65 for the beginning of retirement, but the date is a convenient social planning tool. Continued improvement in health and extended life expectancy may in the future make age 65 seem an early notional age of retirement. However, age 65 has become acceptable as the age when society will guarantee a minimum level of income in retirement. Selecting an arbitrary age has proved more convenient than establishing an earnings or retirement test. Even if one wished to guarantee an income only upon actual retirement, an age would have to be selected which society would tolerate as proper. For instance, paying "retirement" benefits to someone aged 40 would hardly be acceptable. There is an age below which the decision to retire is generally seen as a matter of personal planning, and above which transfer payments are considered acceptable. This age has become 65. Raising or lowering the retirement age will have many social and economic effects, and retirement income planning is one. The Commission therefore makes its recommendations having regard only to the provision of retirement income.

We see no reason to change age 65 as the eligibility age for OAS, CPP, or other government benefits at this time. Furthermore, the Commission does not support the payment of retirement benefits before age 65. (In Chapter 6, we have recommended phasing out the spouse's allowance program.) The chief reasons for this position are the social and economic costs associated with early retirement. Costs will be greater because benefits are paid longer. Early retirement in employment plans means a shorter time for pension accruals so that pension levels may be lower. If this results, there will be greater demands on the government programs and a correspondingly lower tax base and work-force. Larger payments would also be required for indexing.

As for providing an actuarial reduction or increase for early or postponed retirement in the CPP, the Commission does not agree there should be such a reduction or increase. Even though there were no cost increase as such, the impact on the income-tested programs would be great. Lower initial levels of benefits could lead to claims for income-tested benefits after some years in retirement, particularly in an inflationary environment. We have seen in Chapter 5 how an increasing number of older retirees are now applying for GIS for the first time. Many must have retired with what they thought was an

adequate income, only to become disillusioned in a few years by the rapid loss of buying power as a result of inflation.

Although the Commission favours flexibility in the individual's choice of retirement age, the goal of flexibility must be balanced against the constraints of overriding social and economic policies. Thus the Commission supports flexibility in employment pensions, but not if government transfer payments are required at an earlier age. The Commission supports actuarial reductions at the employee's option for early retirement in defined benefit plans and other plans between the ages of 60 and 65. It is understood that there is no increased cost involved in such reduction.

The question of mandatory retirement is not a pension issue as such, and the Commission makes no recommendation regarding it except that there should be no enrichment of the pension fund at the expense of an employee who defers commencement of a pension. If pensions are fully accrued at an age earlier than that of actual retirement, pensions must be actuarially increased.

The Commission therefore recommends that:

The Government of Ontario take no steps to lower the age of eligibility for pensions under federal or Ontario government programs from the existing age of 65.

The Government of Ontario take no steps to lower the age of eligibility in either federal or Ontario government programs on an actuarially reduced basis.

The Government of Ontario, in the absence of strong evidence of a need to encourage work-force participation beyond age 65, take no steps to provide actuarially increased benefits in either federal or Ontario government programs if taking of benefits is delayed past age 65, except to the extent it now exists in the Canada Pension Plan.

The Pension Benefits Act be amended to create an option for every member of an employment pension plan to elect early retirement under the plan on an actuarially reduced basis at any time between age 60 and age 65 or the normal retirement age under the plan, whichever is the earlier.

The Pension Benefits Act be amended to create an option for every member of an employment pension plan who continues to work after normal retirement age under the plan to postpone taking of the pension beyond normal retirement age and to accrue an actuarial increase in the pension until retirement.

NOTES

(1) Health and Welfare Canada, Retirement in Canada, Volume I and II, S. Ciffin, J. Martin, C. Talbot, May 1977. Staff Working Paper 7704. Policy Research and Long Range Planning (Welfare), Ottawa.

(2) Daniel Kubat, "Aging, Retirement and Pensions," background paper, Volume IX.

(3) Louis Harris and Associates Inc., 1979 Study of American Attitues Toward Pensions and Retirement, Johnson & Higgins 1979, pp. 11ff.

(4) Statistics Canada, Perspective Canada II, 1977, p. 37.

(5) Economic Council of Canada, One in Three, Cat. EC22-69/1979, p. 66.

(6) Statistics Canada, Pension Plans in Canada, 1978, Cat. 74-401, pp. 38-41.

(7) Ibid., p. 41.

(8) Ibid., p. 41.

(9) S.O. 1966 c. 3.

(10) The Ontario Human Rights Code Amendment Act, 1972 (S.O. 1972 c. 119) repealed the Age Discrimination Act.

(11) Human Rights Code of British Columbia Act, S.B.C. 1973, c. 119 as amended 1974, c. 87, 1976 Bill 178.

(12) The Individual's Rights Protection Act, S.A. 1972, c. 2 as amended 1973 c. 61.

(13) The Human Rights Act, S.M. 1974, c. 65.

(14) Human Rights Code, R.S.N.B. 1973, c. H-11 as amended 1976, c. 31.

(15) The Human Rights Act, S.P.E.I. 1975, c. 72.

(16) The Newfoundland Human Rights Code, R.S.N. 1970 c. 262, as amended 1973, Act No. 34 and 1974 Bill 114.

(17) Human Rights Act, S.N.S. 1969, c. 11 as amended, 1970 c. 85, 1971 c. 69, 1972 c. 65, 1974 c. 46, 1977 c. 18 and c. 58.

(18) Canadian Human Rights Act, R.S.C. 1976-77, c. 33 as amended.

(19) O. Reg. 654/75 made under the Employment Standards Act, S.O. 1974.

(20) Age Discrimination in Employment Act 1967 as amended.

(21) Conference Board in Canada, Mandatory Retirement Policy: A Human Rights Dilemma?, Donald P. Dunlop, Ottawa, 1979.

(22) Clark, Kreps & Spengler, "Economics of Aging," pp. 935, 937.

(23) Ontario Human Rights Commission, Life Together: A Report on Human Rights in Ontario, Queen's Printer, July 1977, p. 67.

(24) At public hearing.

(25) James E. Pesando, "The Elimination of Mandatory Retirement: An Economic Perspective," Ontario Economic Council Discussion Paper Series, 1979, p. 3.

(26) William C. Greenough, Francis P. King, Pension Plans and Public Policy, Columbia University Press 1976, p. 81.

(27) Ibid., p. 82.

LIST OF TABLES

Chapter 16

Women and the Provision of Retirement Income

In other sections of this report the discussion has touched on statistical and other evidence that women, as a group, receive lower benefits than men from arrangements for the provision of retirement income. In this chapter, the Commission draws together the various observations and examines their implications for employment pension planning and pension legislation.

Pension plans and other retirement arrangements are not inherently discriminatory against women. Rather, the design and operation of retirement arrangements today often combine to result in women's obtaining only minimal retirement income. Most women have lower earnings than men and therefore have less potential pension income. Women form the majority of single GIS recipients. However, all persons with low earnings receive less pension income, and many single men in retirement do not have an adequate retirement income. In most aspects, therefore, it is not so much that women receive unfair treatment compared to men, but rather that, as a whole, women are disadvantaged by existing retirement arrangements, as workers, homemakers, and widows.

The greatly increased participation of women in the work-force points to a future in which the emphasis will be turned from women as dependents to women as workers. Pensions are designed to provide replacement of income for workers when they retire. Women as workers will earn retirement income in the form of pensions in their own right. The rate of change to thinking of women as workers and not as dependents will be governed by economics and the ability of the women's movement to maintain its momentum. There will perhaps be a long period of readjustment in which many women will continue in the life pattern applicable to today's elderly women, while others who are able to have a worklife of full employment may enjoy a reasonable level of income in

retirement. Women who work part-time or only after their child-rearing years will fall somewhere between the two extremes. It is important therefore to recognize the disparities among different groups of women so that future arrangements will allow for these disparities. For example, the Cofirentes Report recommended that survivor benefits under the QPP be for only a short term, in anticipation of re-entry to the work-force. This proposal acknowledges the woman as worker, but ignores the fact that many women, especially in the older age cohorts, are not yet able to enter easily into the work-force.

The following discussion shows the present position of women both as dependents and as workers in relation to employment pension plans and government programs. It also repeats the Commission's recommendations to facilitate the shift in women's position in the future. In many instances the recommendations are reciprocal in their effect for men, since women as workers may also have dependents who will, for example, benefit from survivor options.

WOMEN AND EMPLOYMENT PENSIONS

As we have seen, employment pensions have been designed for middle and upper-income full-time employees with long service, typically male, who provide for the support of a family. The stereotypes of women as economically dependent upon male breadwinners or as a secondary wage earner have an underlying assumption that women need not save for retirement and may rely upon the male breadwinner to do so. This assumption ignores the large numbers of working women who will remain single or divorced or become widowed long before retirement age. Many women who accepted these assumptions earlier are now suffering from the inadequacies of present arrangements for surviving spouses.

It is evident from many briefs to this Commission by organizations involved in the pension industry, such as Canadian Institute of Actuaries, Canadian Life Insurance Association, Canadian Manufacturers' Association, and Trust Companies Association, that the position of women is not seen as an issue in future pension planning. When the matter is addressed, it is in terms of the dependent stereotype - that is, women are not considered as pension plan members, but only as <u>survivors</u> of plan members. As such, a common recommendation from the industry might urge an automatic joint-life provision in plans, but no discussion is found which relates the provisions of pension plans to women's need, desire, and ability to provide for their own financial security. But while "women" might not be an issue for the pension industry, it is clear from the more than 90 submissions from individual women and women's organizations that pensions are indeed an issue for women. These submissions deal with the whole range of issues facing pension planners today - coverage, vesting and locking-in, portability, indexing, benefit calculation, and supplementary benefits.

Women in the Work-force

The stereotype of women as dependents belies the phenomenal rise in the attachment of women, particularly married women, to the paid work-force. In the 1920s, only about three per cent of married women were in the work-force. Since that time the growth in the married segment has fundamentally altered the composition of the female labour force, to the point that since 1966, married women have constituted more than half of the female labour force. By 1978, 60.3 per cent of women in the labour force in Ontario were married, 29.9 per cent were single, and 9.8 per cent were widowed or divorced. Today, of the total work-force, two workers in five are women, the proportion of women to men having doubled since 1941.

Many hold that in times of economic downturn, women, particularly married women, are drawn into the labour force to supplement family earnings; and when the economy improves, they retire to their home-making roles in the unpaid sector. Participation rates show that this is not necessarily so. Historical figures for female labour force participation rates show a steady climb regardless of the underlying economic performance. When participation rates are contrasted with year-over-year percentage increases in Gross National Product, Consumer Price Index, and wages, salaries and supplementary labour income, there is no correlation. Even in the age groups 25-34 where we might expect mothers to remain at home because of family responsibilities, the participation rate of women has climbed from 52.9 per cent in 1975 to 59 per cent in 1978.(1) While the rates for married women are lower than those of single, widowed, or divorced women in the middle age ranges, they are sufficiently high to refute the assumption that married women are entirely dependent on the male "breadwinner." Between the ages of 25 and 44, 63.6 per cent of women in Ontario work, compared to 47.7 per cent between 45 and 64.(2) Short-term economic rewards are not the sole motivation for entering the labour force. Women are working for a number of the same reasons that men do and are in the paid labour force to stay. In 1976, the Economic Council of Canada offered a number of reasons for the increasing participation rates of women:

> "...while there has been a relative decline for some years in the kinds of physical jobs that are traditionally looked upon as a male preserve - farming, fishing, logging and mining - employment has expanded sharply in white-collar occupations...and in clerical, service and recreation jobs. Second, rising costs are encouraging employers to develop part-time work or short-term jobs that permit the employment of women who are prepared, at least for the moment, to accept fairly low remuneration in return for more flexible employment arrangements that meet the needs of their immediate family circumstances. But of probably even greater significance are the social and cultural developments that have altered women's perceptions of their role in society, which, coupled with more

effective birth-control methods, have led to reduced emphasis on child-bearing and to greater career orientation."(3)

This participation of women is likely to continue. Dr. Kubat, sociologist to the Commission, in his background study on Canadian occupational structures (Volume IX) concludes that the composition of the labour force will tend towards an even distribution between the sexes with, however, some under-representation of women of child-bearing age (25 to 35). Labour force participation for women will stabilize at about 60 per cent during the child-bearing ages and will tend to be equally distributed by sex, economic conditions permitting, for the other working life age groups.

Although more women are joining the work-force, they are less likely to be members of a pension plan. The Commission's coverage study prepared by Weitz (in Volume VIII) showed that 60 per cent of men and 40 per cent of women in the target population were members. If the figures for public sector coverage are removed, about 50 per cent of men and about 22 per cent of women working in the private sector are members of a pension plan.

In addition, women's coverage patterns differ from men's. Male coverage increases steadily from ages 18 to 64. Female coverage falls off between ages 35 to 44, reflecting the effect of child-rearing, and employment on a part-time or short-service basis. There is a greater incidence of part-time work for women than men. The Weitz coverage study showed that 13.7 per cent of women (2.5 per cent of men) employed in the public sector worked part-time, and 20.1 per cent of women (3.9 per cent of men) employed in the private sector worked part-time. Most part-time workers are not eligible to join a pension plan. Lack of coverage arising from the exclusion of part-time workers from employment pension plans primarily affects female workers.

When women are members of pension plans, they tend to be in lower-paid occupations than men, and therefore receive lower pensions at retirement. Sectors employing large numbers of women, such as sales and service occupations, are among the lowest paying sectors of the economy. Even in sectors considered typically female, men earn more than women in similarly described positions, including office positions, restaurant and hotel positions.(4) The gap persists in higher earnings fields, such as college and university teaching.(5) A Department of Health and Welfare study showed that in 1975, employment pension and annuity income provided 14.1 per cent of all retirement income for single males aged 66 and over, and 10.2 per cent for single females.

Women are less likely to obtain a pension because of their greater job mobility. The Commission's consumer survey showed women are far more likely than men to leave the labour force after their first job. The survey also showed women left the labour force after one job, primarily to undertake homemaker and child-care activities and tend to keep

their jobs for shorter periods than men. As well, the ratio of women to men in the labour force decreases over time. We have seen that two patterns of work are essential to obtain full pension credits in the present pension design: employment by one employer for the whole worklife, and an unbroken period of work from commencement (between 18 and 25) to age 65. Vesting rules typically require continuous service.

Thus, although more women are in the work-force, they are now less likely than men to work for employers with pension plans and less likely to be eligible to join a pension plan. They are more likely to receive a lower pension, and less likely to obtain any pension at all.

Part-time Workers

As noted earlier, the exclusion of part-time workers from employment pension plans primarily affects women workers.

While part-time work has appeal for many married women with family responsibilities, less than 25 per cent of working women are in part-time employment.(6) However, the proportion of such part-time work in Ontario is growing - 21.9 per cent in 1975, 22.4 per cent in 1976, and 23.6 per cent in 1977 and 1978. For those who do work part-time, it is often on a long-term if not permanent basis:

> "Approximately 28 per cent or 6,800 of the nurses represented by the Ontario Nurses' Association are part-time employees....The nature of nursing care demands a strong contingent of part-time nurses, and many long-service nurses serve an entire career as part-time employees working, for example, 3 days a week on a regular basis."(7)

Some employers, in large retail stores for example, have adopted a policy of including part-time workers in their pension plans on a pro rata basis. For someone who worked half-time, it would take twice as long to build credits; but for those working part-time on a regular basis, some access to the pension plan is thus obtained. Part of the coverage problem may be women's own responsibility. Where joining the pension plan is optional many women, especially part-time workers, are apt to refrain from joining. Realization of the benefits foregone by this choice and a change in thinking about the need for long-term retirement income planning should help reduce lack of coverage for this reason.

Briefs to the Commission have recommended coverage of part-time workers. Enid Edwards (Brief 86) works four-fifths time at Fanshawe College in London and was refused access to the pension plan because she has a six-week break in her employment every summer. Mrs. B. Barnet (Brief 97) is employed at Ontario Hydro every morning and wishes to join the pension plan. The Ontario Federation of Labour (Brief 221) and others recommend that any employee working half the regular hours in a

year (1,000 hours) be eligible to join a pension plan. In addition, there may be classification problems in some unions. Mr. J. Hoaran (Brief 281) refers to a "permit man" being temporary help in the U.A. (Plumbers' Union). He states that funds were contributed by employers over two years on projects, but the union had a seven-year requirement to obtain any benefit from the funds. The Trust Companies Association (Brief 361) submitted that voluntary savings may be more important for part-time workers. We have noted earlier, however, that in the Commission's opinion, RRSP coverage is only a partial solution to the coverage problem.

With more and more married women working and with the growing incidence of part-time work, flexibility of retirement income design is required to accommodate the demands of child-rearing and other emerging patterns in the job market. Kubat observes that the present-day youth do not share the previous generation's attitudes towards work, and may cease working for a time when other support funds become available or may alternate periods of work, perhaps in combination with other household members. We are also aware of job-sharing proposals to answer some of the problems from the over-supply of teachers. Without some flexibility in pension design, such proposals will be rejected by most.

The enactment of the Commission's mandatory plan (PURS) would make all employment pensionable and would provide complete portability. Generally the Commission finds that there should be an acknowledgment that a pension benefit is part of the job and compensation package where there is a durable relationship between employer and employee. The Commission supports the principle that permanent part-time employees should be covered by a pension plan.

The Commission recommends that the Ontario Pension Benefits Act be amended to require extension of eligibility to all part-time employees where there is a durable employment relationship between employer and employee, on the same terms and conditions, pro tanto, as applicable to full-time employees. If, however, the PURS plan is adopted and covers part-time employees, a part-time employee should have the option of refusing to join the employer's plan, even if the plan is compulsory for full-time workers.

In the Commission's opinion, a durable relationship can arise from part-time work with different characteristics. For example, part-time work of two days a week continuing for an indefinite period by the employment contract (sometimes called "permanent part-time") reflects a durable relationship which should be accompanied by pension eligibility at least on a pro rata basis, with the potential of earning some entitlement to employer contributions. A durable relationship may also arise from broken periods of full-time work, such as those resulting from seasonal work or (as in an example mentioned above) a break in employment during the summer months. Precisely how the term "durable" is to be defined will depend on whether the mandatory

plan is legislated. If PURS is adopted, it would automatically cover all part-time work; in that event it would be possible to entertain a somewhat narrower meaning of "durable relationship" for eligibility conditions in other employment pension plans. However, the principle that part-time workers have a right of access to employment-related pension benefits must not be overlooked when considering the feasibility of eligibility requirements.

Survivor Benefits

The provision of survivor benefits is made or advocated on the traditional assumption that, in marriage, the husband is the breadwinner and the wife is dependent. It is assumed that if a worker or pensioner dies and wages or pensions cease, the dependent will be without means to continue to live in the accustomed style. While there are striking changes in women's work patterns, many women today are in fact dependent upon their husbands' wages and pensions.

The implications of this dependence are compounded by the longer life expectancy of women. In 1976, life expectancy at age 65 was 13.7 years for men and 17.9 years for women. Furthermore, the gap in longevity between men and women continues to increase. In the future, women may expect longer periods of widowhood occurring at older ages.

As we have seen from the earlier detailed discussion of survivor benefits, almost all members of plans in the public sector are covered by a spouse's pension for death before and after retirement. In the private sector in Ontario in 1978, 29.3 per cent of members were in plans with no benefit on death before retirement and 25.4 per cent were in plans with no benefit on death after retirement. About 30.3 per cent of members in the private sector (86.6 in public sector) were in plans providing a widow's pension on death before retirement, and 20.7 per cent (83.3 in public sector) were in plans providing a widow's pension on death after retirement. However, 45 per cent of private sector members had guaranteed terms of 5 to 10 years for pension payments. The guarantee approach has been criticized since the survivor who outlives the guaranteed term is not protected. In considering these data, it should be kept in mind that death benefits may be provided through group insurance and that the plans in the data include non-contributory plans.

The area of survivor benefits shows the ambivalence in approaches between the notion of earned rights through employment and that of entitlement based on the assumed need of a dependent spouse. If based on earned entitlement, all employees should receive the death benefits provided. If based on need, the design may not be valid for the spouses of present and future women workers, although still valid for today's elderly. The Commission endorses the attitude that over time there should be a move away from the rationale of need because of marital dependency. Eventually survivor benefits might be phased out, except as an option.

However, today's elderly suffer as a result of inadequate survivor benefits. Not all surviving spouses have such benefits, and such pensions are often small. Survivor pensions typically provide 50 per cent of the accrued pension benefit, which itself may be minimal. Thus the existence of a widow's pension of 60 per cent (which the Commission favours) or 75 or even 100 per cent, is no assurance of an adequate level of survivor income. For those dying before retirement, except in the years close to retirement, the needs of a survivor may be better served by group life insurance. The Commission does not favour a mandatory joint and survivor option for employment plans in the event of death after retirement because other arrangements to provide income may have been made by the spouses, one spouse may be known to have a shortened life expectancy and in light of the Commission's recommendations for a mandatory plan.

The Commission therefore has recommended that certain minimum benefits be provided on death both before retirement and after retirement. The detailed discussion of these recommendations is to be found in Chapter 11 (Volume II). These measures will primarily assist women who lose a spouse after retirement or in the years just prior to retirement.

For the long term, the Commission favours an approach which would end discrimination on the basis of marital status in pension plans. This could be achieved by adopting the ERISA approach to elections, so that spouse's benefits are provided at equal cost to the employer for married, unmarried, divorced, and widowed employees. Benefits for spouses would then be provided as decided by the spouses. This approach is in step with the splitting of CPP credits on divorce, the increased female participation in the work-force, and the Cofirentes recommendation for short-term survivor benefits. However, the principle of need assumed from marital status is firmly entrenched in employment pension plans, particularly in the public sector, and will die hard. The Commission recommends that the government take no new steps to support the assumed need principle in pension design. Where actual need exists, it is to be hoped that individual married couples will exercise available options to fill their particular needs. The dependent spouse should have a right to share in the election. Pension designers should recognize the need for flexibility in the survivor provisions and monitor life patterns with a view to altering the position as new patterns of independence of spouses emerge in the future.

Anti-Discrimination Legislation

Prior to 1975, many pension plans provided different terms and benefits for male and female employees. Although equal opportunity legislation in Ontario was enacted in 1951, an exemption existed until 1975 for discrimination on account of sex or marital status in any *bona fide* pension fund or plan. The Task Force on Employee Benefits under Part X of the Employment Standards Act studied equal treatment in its report of April, 1975. Most of its recommendations were enacted in 1975

by the Employment Standards Act so that there shall be no differentiation on account of sex or marital status in any fund or plan provided by an employer to employees under a condition of employment or in which an employee elects to participate. However, certain exemptions are permitted, and the prohibition does not apply to the following if the differentiation is determined upon an actuarial basis:

1. monthly or periodic amounts provided under a money-purchase, profit sharing or composite pension plan;

2. benefits provided under additional voluntary employee pay-all pension plans or under voluntary additional contribution features;

3. the conversion of normal pension benefits under an option contained in a pension plan;

4. the conversion of normal pension benefits because of the retirement of an employee before or after the normal retirement date;

5. a differention in the rates of contribution of an employer to a pension plan in order to provide equal benefits under the plan;

6. an increase in benefits payable to an employee because the employee has a dependent spouse;

7. any benefits payable periodically to a surviving spouse of a deceased employee;

8. a differentiation in the contribution rates of an employer to a defined benefit plan that provides an increase in benefits to an employee because of marital status where the contribution rates of the employer differentiate between employees because of marital status.

As we have seen in Chapter 11, since the pension benefit takes the form of a lifetime payment, life expectancies are an essential element in calculating the cost of the benefit. With female life expectancy exceeding that of males by more than four years, payments to women on average continue longer, and therefore pensions for women cost more. This reasoning also applies to all life annuities whether purchased in satisfaction of pension benefits or RRSP benefits.

The Task Force recognized the validity of the use of statistical averages and classifications of sex in determining the aggregate cost of a benefit for a group of employees. The Task Force distinguished defined cost and defined benefit. Defined benefit plans pay the same benefits to men and women, but contributions vary. In defined contribution or money-purchase plans, the contributions are equal for men and women,

but the benefits are not. While generally agreeing that the level of benefits should not vary by sex nor should the cost to the individual employee so vary, the Task Force made exceptions for money-purchase plans and features.

The first four exceptions under the Employment Standards Act, set out above, permit the use of different mortality tables for men and women. This means that women receive less pension income than men in those cases. The fifth permits differing employer contribution rates for men and women to provide an equal pension benefit. This is typically the case in defined benefit plans, which cover 92 per cent of all members of plans (Ontario, 1978). Thus it is legal to provide an equal benefit at an unequal cost in defined benefit plans and an unequal benefit at equal cost in money-purchase plans.

Those opposing the unequal benefits and contributions recommend the use of a combined table of life expectancies called a "unisex" table. This does not deny that women live longer, but requires that the cost of a life annuity be based on a group of both sexes rather than a division into two groups by sex. The blending of two groups with different characteristics for rating purposes is not unknown. One example frequently cited results from the prohibition under U.S. law of different mortality tables for blacks and whites, although life expectancies for blacks and whites in the United States are known to be different.

In the United States, the Equal Employment Opportunity Commission issued a guideline in 1972, stating that benefit levels must be equal, regardless of greater cost with respect to one sex than another. The Supreme Court of the United States in <u>City of Los Angeles v. Marie Manhart et al.</u> found a contributory defined benefit plan to be discriminatory in requiring 15 per cent higher contributions for female employees than male employees. The court found that discrimination existed by applying the general characteristic of female longevity to individual female employees, who in reality may not outlive male employees. The court relied heavily on the fact that the benefit or contribution differential was based on the life expectancy of the "average" man and "average" woman.(8) The court emphasized that in a population of 1,000 men and 1,000 women age 65, 84 per cent of the women would die in the same year as 84 per cent of the men. The court found this <u>stereotyping</u> on the basis of sex to be discriminatory.

Although Ontario prohibits unequal contributions by employees in defined benefit plans, the increased cost is paid by employers so that the greater cost for women is less obvious. If pensions are deferred pay, such higher implied cost of pensions for women may be seen as contrary to the concept of equal pay and may also be a disincentive to the hiring of women.

Hirschland and Tewksbury in "Sex as a Factor in the Pricing and Underwriting of Employee Benefits" conclude that it is possible to calculate benefit amounts without differentiating the benefit by sex:

> "Benefit amounts need not be sex-linked. This point is especially pertinent in considering a defined contribution pension plan. Currently, when a male retires and receives a straight life annuity his periodic benefit will be determined by the year-to-year probabilities of his survival (derived from a male annuity table) and the accumulation of funds in his account. A woman similarly retiring will have her benefit calculated in the same manner except her 'life expectancy' is normally obtained by an age setback from the male annuity table.
>
> "If the actuary is not basing the benefit on sex, he (she) will simply find the benefit for a male and the benefit for a female and take a weighted average based upon the number of men and number of women choosing that option. For example, if there are 16 men and four women retiring at the same age with the same accumulation, which will fund a $120 monthly benefit for the expected life of each man and a $100 monthly benefit for the life of each woman, the monthly benefit will be $116 for each retiree, regardless of sex. (9)
>
> "In a defined benefit plan, this process is essentially reversed. The benefit amount is defined, and the sex and age of the participants are then used to calculate the contributions. If the annuity form assumed in cost calculations is not used, the same weighted averaging process can be used so that the actuarial charge for each participant's benefit is now equal.
>
> "It is feasible, then, to provide an equal benefit for defined contribution plans and optional annuity forms for defined benefit plans by providing a 'weighted average' benefit. This is the underlying theory and result of current unisex mortality tables, such as the UP-1984 Table. It should be noted, however, that if the percentages used for the benefit formula are not related to the sex distribution of the group, severe actuarial gains or losses are likely to occur."(10)

The argument about the mathematics of providing equal benefits for women, whose life expectancy is greater than men's, could continue indefinitely without resolution. The real issue is whether government should intervene to correct what many people see as an intolerable position in terms of social justice. Plainly stated, it is a position that allows a woman to receive less monthly income in retirement than a man, where both of them have made equal contributions to an identical scheme over the same period. This view regards the essence of retire-

ment income to be in the monthly cash flow, and that "equality" in the treatment of men and women is in the receipt of identical monthly amounts. This view sees retirement income as filling the basic needs of the recipient regardless of his or her sex. We have seen in Chapter 8 how the identical capital sum accrued over 15 years from equal contributions of 20 per cent of the 1979 Average Industrial Wage will provide a monthly payment of $795.00 to a man and $730.79 to a woman. The fact that over time, taking into account longer life expectancy of women, the same total payments may be made for a woman as for a man, is not accepted as a justification for the lower monthly amount.

If the view of pension income as cash flow prevails, what can be done to ensure equality between men and women? Several alternatives have been put forward:

1. use of unisex tables;

2. use of actual mortality experience where the group is sufficiently large;

3. equal benefits and unequal contributions;

4. greater options to avoid the purchase of an annuity.

1. The unisex table approach is vigorously opposed by the insurance industry because it regards as essential the continuance of its practice of rating by sex characteristics. As discussed in Chapter 11, the Commission recommends unanimously the adoption of unisex tables for determining the ultimate benefits under its proposed mandatory plan (PURS) because an equal benefit is essential for any plan which is imposed by legislation. An equal contribution by employers and employees is also important. (An Alberta Board of Inquiry concluded that insurance companies were discriminatory if premiums were different for life annuity contracts for men and women.) The rationale for implementing unisex tables rests on public policy grounds rather than on any technical argument. A majority of the Commissioners agreed that insurance principles should be disregarded and unisex tables used in determining annuity payments for all money-purchase plans and RRSPs.

2. Quebec's Committee on Non-Discrimination in Employee Benefits was not prepared to find that discrimination occurs in money-purchase plans where pension amounts differ because of differing mortality rates for men and women. It did, however, consider that "the mortality tables used for large groups should reflect the actual death rates of these groups." The Committee did not explain the reason for this position. Presumably it had in mind the hypothesis, yet to be proved by statistics, that women experiencing the stresses

of the work place will have lower life expectancies than women on average.

3. Equal benefits with unequal contributions by the employer to a money-purchase plan will achieve the desired equality from a cash flow point of view. This is the solution adopted by the Canadian Human Rights Commission for employees under federal jurisdiction. Its regulations, amended in January, 1980, provide that in money-purchase plans, equal annuity payments must be made on retirement to male and female employees of the same age and earning the same salary. The rule is applied even where it necessitates higher contributions by an employer to allow for equal payments to female employees. In voluntary plans or features of plans where the employees pay all the contributions, differences are permitted in the amount of benefit because of sex.

   This solution preserves insurance principles but interferes with the nature of a pension promise voluntarily made by an employer. In a money-purchase plan, the employer promises to assist the employee in creating a pool of money which ultimately by law must be expended in the purchase of the annuity for life. There is no undertaking by the employer in the promise to secure any level of benefit. The employer's promise in a defined benefit plan, on the other hand, is for a specific level of benefit regardless of the cost implications. The effect of the equal benefits and unequal cost solution is to create additional cost for the employer and a disincentive for the hiring of women where a money-purchase plan is used.

4. A different approach would be to give women in money-purchase plans more flexibility through options at retirement so that it would not be obligatory to purchase an annuity in every case. The proposal would make available the Registered Investment Income Fund approach now available for RRSPs. This would enable a woman to preserve her capital and to enjoy a cash flow from investment returns. In this way, insurance principles and equality by equal contributions from employers would be maintained. No cash out would be permitted as is customary in RRSPs, so that the principal of providing for income flow rather than capital would be preserved.

From the existence of these alternatives, it is clear that there is a trend in society which favours non-discrimination between men and women in the provision of benefits. For women in money-purchase plans and RRSPs it is a crucial issue because it has a direct effect on levels of retirement income. It is an issue which should be resolved without further delay. The Commission unanimously recommends unisex tables for annuities purchased for PURS. The Commission (majority) recommend unisex tables for annuities purchased for money-purchase plans and RRSPs.

OAS, GIS, and CPP

Women as independent workers are recognized to a greater extent in government programs than in employment pension plans. The Old Age Security payment is paid to men and women alike regardless of marital status or work history. The Canada Pension Plan design applies to all workers equally. Survivor benefits apply to male and females equally. When the plan was established, survivor benefits applied only to widows and disabled widowers. The provision was dropped as of January 1, 1975, and from that date the contributions of women buy the same survivor benefits as those of men.

The CPP is earnings-related; the longer one works and the more one earns, the more retirement pension one receives. Therefore the problems of women's earnings and work patterns discussed above apply equally to the CPP. However, the CPP provides equal access, full portability, and equal benefits. Thus, any sex differential in CPP benefits will be attributable to the position of women in the work-force. Traditionally lower earnings of women mean lower income in retirement from the CPP.

Table 1
CPP Retirement Pension: Number, Gross Amount, and Average Monthly Amount by Sex, September 1979 (Maximum 1979 Pension - $218.06)

Sex	New pensions Number	New pensions Monthly average	Total pensions Number	Total pensions Monthly average
		(Dollars)		(Dollars)
Males 65 and over	4,779	177.20	501,532	122.68
Females 65 and over	2,347	118.34	203,967	86.87

Source Health and Welfare Canada, "Canada Pension Plan, Statistical Bullentin, Vol. II, No. 3, September 1979," p. 15.

Less than half as many women as men receive CPP retirement pensions, and the average retirement pension is lower. In 1976, women constituted 37.1 per cent of CPP contributors.

Table 2
Average Earnings of CPP Contributors by Sex and Employment Status, Ontario, 1976

	Males	Females
	(Dollars)	
Employed	12,951	7,005
Self-employed	13,164	6,480
Mixed	15,764	8,112
Total	13,076	7,008

Source Health and Welfare Canada, "Canada Pension Plan Contributors 1976," p. 52.

Elderly women rely heavily upon income from government programs in retirement. Income from OAS, GIS, CPP, and other social or provincial assistance constituted 59.1 per cent of all income of individual women aged 66 and over in Canada in 1975 (49.8 per cent for men) with OAS and GIS constituting 53.6 per cent (44.3 per cent for men).

Health and Welfare Canada found that in 1975, the average income of single elderly persons ($3,796) was 43.4 per cent of the average for couples ($8,746).(11) More than 70 per cent of these single persons were women, and about 85 per cent of these were widows. Health and Welfare Canada found that the "retirement income system" not only reflects but reinforces the income inequalities that hold through the working years.(12)

As the Report of the Special Senate Committee on Retirement Age Policies found, 60 per cent of unattached women over 65 in 1977 had incomes below the Statistics Canada poverty line, and three times as many women as men 65 and over were poor on this basis.(13) The poverty of elderly women has been well documented in Women and Pensions by Kevin Collins, written for the Canadian Council on Social Development.

In 1976, women were 58.1 per cent of Ontario's population aged 65 and over, and 51.4 per cent of these women were widowed. Women were 54.6 per cent of the Ontario population 65-74, 61.8 per cent of the population 75-84, and 68.1 per cent of the population aged 85 and over. Life expectancy tables point to an increasing gap in longevity between men and women in coming years. The Commission's population projections in the Canada Pension Plan volume show that more women will survive in absolute numbers as well.

Because fewer women obtain pension income from employment through both public and private programs, there is a greater reliance upon the government income-tested supplements in retirement. In June, 1978, there were 63,983 women and 30,566 men in Ontario receiving the full Guaranteed Income Supplement and 214,467 women and 125,291 men receiving partial GIS. Thus women constituted 67.6 per cent of full GIS recipients and 61.3 per cent of partial payees.

Beneficiaries of the Spouse's Allowance program are almost entirely women, with 1,014 women and 208 men receiving the full allowance and 15,157 women and 1,037 men receiving a partial allowance in Ontario in June, 1978. (As discussed in Chapter 6, the Commission favours a phasing out of the Spouse's Allowance program to eliminate the inequities between married and unmarried persons in need between ages 60 and 65).

While figures for payment of Ontario's Guaranteed Annual Income System (GAINS) are not available by sex, the nature of eligibility criteria for GAINS payments is such that the numbers should be similar. That is, anyone receiving full GIS will automatically receive GAINS supplementation, and a good proportion of those on partial GIS will

also have incomes below the GAINS guarantee level. This results in a disproportionate female dependence on GAINS.

This sex distribution of the older population is often overlooked in discussions of future dependency ratios, yet the implications of an increasing number of women are profound. If the senior population were made up of equal numbers of men and women with equal financial resources, the increased costs of "dependency" could be measured in numbers alone. However, not only do the numbers of survivors increasingly favour women, but this larger segment has the lower incomes and so the cost of support is increased. It signals increased expenditures from income support programs such as GIS, GAINS, and social assistance, and it means that any subsidized services aimed at the senior population as a whole (housing, rental assistance, nursing home care, and other social services) will be covering a growing population at the bottom of the economic ladder.

Many of the present generation of senior women are in financial hardship now because they were housewives and not part of the paid work-force. This reinforces the contention that the present system is not working. Such women fit the stereotype "male breadwinner - female dependent" around which the system was supposedly designed, yet in old age they are without resources and dependent on the taxpayer for subsistence.

If present structures remain unaltered and continue to launch women into the retirement years in a poor financial state, we should prepare for massive fiscal transfers in the future to ensure them a decent living in their increasingly long lives. The alternative is to mould the system now to fit the emerging reality and to open as many avenues as possible for women to contribute to their own future security.

Homemakers

Aside from improvements in the earnings of women, many advocate the participation of homemakers in the CPP on some basis. Because the CPP pays pensions based on earnings, those without earned income, particularly housewives, do not participate except for the spouse's benefit on the death of a contributor.

The concept of permitting voluntary contributions by homemakers is discussed in detail in Volume V of the Report which deals with the Canada Pension Plan. There is no doubt that homemaking services are a valuable component of the real income of the household. Although most of the services performed by homemakers could be purchased from others, it is difficult to assign a value to this non-market activity. It is also difficult to determine the retirement benefits as earnings-replacement. A homemaker has no earnings to replace and generally does not retire.(14) A conceptual earnings base for the homemaker could penalize those working for less, such as a woman working outside the

home part-time and performing full-time homemaking duties. The Special Senate Committee on Retirement Age Policies rejected the inclusion of housewives in the CPP and supported the principle that the CPP is "inherently tied to paid work."

For the reasons discussed in Volume V, the Commission does not recommend the voluntary or compulsory participation of homemakers in the CPP. It feels that efforts are better directed towards assisting women to achieve earnings-related retirement income in their own right rather than as dependents.

However, there is a need to recognize the effect of child-rearing on the retirement income of a worker forced to withdraw from the work-force on that account. The CPP design now calculates benefit entitlement over a maximum 47-year work-life (age 18 to 65) with a provision for "dropping out" or not counting 15 per cent of the worklife up to a maximum of seven years. Such a dropout recognizes that work patterns reflect dislocations such as periods of higher education and time lost due to illness. Child-rearing may also be seen as a dislocation in the career. All provinces participating in the CPP except Ontario and British Columbia, have accepted a child-rearing dropout provision by which a homemaker (male or female) could deduct years of child-rearing for each child up to age 7. The Commission's consumer survey showed 70 per cent of respondents favoured the dropout provision, and it was advocated in every brief dealing with the matter.

The Commission views the adoption of the dropout provision as an important step toward recognizing women as a vital part of the work-force, reflecting their particular work patterns. Women who temporarily drop out of the labour force to care for young children should not be unduly penalized by their necessary absence from the work-force.

PENSIONS AS FAMILY ASSETS

One suggested solution to alleviate the situation of elderly women with inadequate income is to share pensions as family assets upon marriage breakdown or even throughout the marriage. Pensions often represent a major asset. Annuity income of $300 a month for women ($326 for men) at age 65 has a capital value of about $30,000. This capital value will vary with the interest rate used to calculate the annuity, but clearly represents a substantial part of most individuals' "savings." Since January 1, 1978, the Canada Pension Plan allows for splitting upon marriage termination of CPP credits earned during the marriage if one of the spouses applies. The provision is either being ignored or not sufficiently well-known because the right is seldom exercised. However, it may be that the credit splitting is used in negotiations for settlement between the parties with the value being taken into account, but the actual complexities of splitting are avoided.

The Special Senate Committee on Retirement Age Policies concluded that CPP pensions of both spouses should be shared between them on a 50-50 basis, partly as an answer to the problem of a non-working housewife, but also as a general principle embodied in the idea of marriage as a partnership. The Committee appeared to recommend an automatic sharing on marriage breakdown, although this is not entirely clear from the report.

The Commission does not agree that splitting of CPP pensions will be very useful in providing adequate retirement income to spouses, either men or women, and would not favour any extension of pension splitting in this fashion. The arrangement already in the CPP is too recent for its long-term effects for both spouses to be appreciated. In the case of a person with two marriages both ending in breakdown and splitting of credits automatically, one can envisage CPP benefits which will be inadequate not only for the non-working spouse but also for the worker. Leaving the splitting to be initiated by one of the spouses allows room for resolution suitable in individual circumstances.

The question of dividing pension benefits arising from employment pension plans is attracting much attention in family law. Six provinces have enacted legislation recognizing the principle that marriage is a partnership, and that family assets acquired during the marriage should be shared. British Columbia has defined pension rights to be part of family assets.(15)

In Ontario, the Family Law Reform Act provides that family assets include a matrimonial home and property owned by one or both spouses and ordinarily used by the family for "shelter or transportation or for household, educational, social, or aesthetic purposes." In the event of marriage breakdown, the law presumes that both spouses have an equal right to share in family assets notwithstanding the ownership of the assets by the spouses (s. 4(1)). This may be varied by agreement of the spouses.

In addition, the court will make a division of any property that is not a family asset where a spouse has unreasonably impoverished the family assets or the result of the division of family assets would be inequitable in the circumstances (s. 4(6)). The court may also order compensation or an interest in property where one spouse contributed work, money, or money's worth to the acquisition, maintenance, or improvement of property other than family assets (s. 8).

Aside from questions of property rights, each spouse has an obligation to provide support for himself or herself and to each other in accordance with need and to the extent the spouse is capable of doing so. In determining the amount of support in relation to need, the court considers the assets and means of the parties and "any benefit or loss of benefit under a pension plan or annuity." (s. 18(5)).

Since in Ontario pensions are not specifically included as family assets and have not been judicially determined to be family assets as defined in the legislation, pensions are looked to in satisfaction of support obligations rather than as assets to be shared. In other words, pensions are seen as a means of providing a regular income in retirement rather than as capital assets. However, since the Ontario legislation also provides that any property may be subject to division in appropriate circumstances, it is possible that pensions may be shared. One Ontario case awarded a lump sum to satisfy a spouse's interest in an RRSP.

A recent B.C. case, Rutherford v Rutherford (December 27, 1979, unreported), shows the difficulty of sharing a pension on divorce. In that case, the husband was 53 and had 37.8 years of service with the provincial government. He was a member of the statutory final 5 year average plan and could retire as early as age 55 with a yearly pension of almost $18,000. His compulsory contributions totalled $22,550 and additional voluntary contributions totalled $8,638. His gross income was almost $30,000 or $1,858 net per month and the wife's gross income was almost $15,000 or $1,000 net per month. The spouses were married in 1949.

Under the provisions of the B.C. Family Relations Act, family assets include a right of a spouse "under an annuity or pension." The judge found that the pension should also be shared under the general provision empowering a judge to rearrange property on the grounds of fairness. He concluded the pension was a family asset and proceeded to direct the method of sharing it as follows:

- If the husband dies before retirement, one-half of the amount he paid in becomes the property of the wife, calculated to the date of dissolution of the marriage.

- When the husband retires (between 55 and 65), the pension in pay will be shared. The wife's share will be 50 per cent. This may be less depending upon the circumstances, since as each year passes her share may become smaller because the money taken from his salary towards the pension is not being earned during marriage.

- If the husband does not retire at age 55, some compensation will be paid to the wife by way of an order for permanent maintenance until she participates in the pension. By electing not to retire at age 55, "the husband by his own conduct will be depriving the wife of her rightful share in the family asset."

- The husband is restrained from nominating any person other than his wife as beneficiary before or after retirement.

Difficulties of valuation occur whether or not a pension is to be shared as a family asset or as other property. The Rutherford case raises several interesting questions in this regard:

1. If the pension in pay is reduced to account for the amount purchased by contributions after dissolution of the marriage, the plan design may affect the amount to be shared. A career average formula may require a larger share to the non-worker spouse than a final average formula. A defined contribution plan is easily valued at the dissolution of marriage as the total accumulated employer and employee contributions.

2. The pension member can choose the date of retirement if the marriage subsists, but after dissolution may have to compensate the other spouse if retirement is not taken when first eligible.

3. The value of any pension of the wife in her own right would have to be taken into account.

4. The present value of the pension benefit must be assessed. The husband in this case retained an actuary, who testified that many assumptions made in such an estimation might turn out to be wrong. Assumptions which may be valid for a group of employees may not be appropriate for use when applied to an individual.

5. If a present value were placed on the pension as capital, the husband would have to pay one-half the value of a pension he has not received and may not receive. If the husband died before retirement, the pension would not be payable.

6. Suppose the husband remarried at age 55 and retired at age 65 and divorced again at age 66. The possibility of remarriage and divorce may be considered.

7. The problem of differing benefits for husband and wife may arise in a defined contribution plan since the increased longevity of women reduces a wife's benefit. Even in a defined benefit plan, the funding and cost may be affected since the equal benefit for women costs more. If benefit sharing on dissolution of marriage were to become more common, the possible cost effects would have to be reflected in the actuarial assumptions for defined benefit plans.

8. The likelihood of vesting may have to be taken in account. If a member were not vested, the sharing could be one-half the employee's contributions.

9. A different set of rules may be required for non-contributory plans. What could be shared before vesting or in the event of death before retirement would be different.

If the pension were a matter of a support obligation, the case would be considered differently. In the first place, the obligation would arise in situations of need, and not as of right regardless of need. This need would be ascertained initially at dissolution. The fact that income was pension income would not be material. If and when the pension became payable, it could be looked to in satisfaction of orders for support.

The conditions governing rights to pensions prior to retirement and the purpose of pension plans from the employer's point of view make treatment of an employee's pension rights as a capital asset very difficult. Where the plan is contributory, it may be that the employee's contributions with or without interest could be available as an asset, but the right to a pension on retirement from the employer is fraught with too many issues revolving around long-service rewards and deferred wage concepts. Added to these problems are administrative problems involving employer, pension trustees, pension fund custodians, and survivorship benefits. It would be unfortunate if a court, in seeking to attach assets to satisfy claims between spouses, were to upset arrangements designed primarily to provide income in retirement and required for security reasons to be funded by large accumulations in a fund.

The Commission therefore recommends that under the Ontario Family Law Reform Act, pensions be regarded as income in retirement, which may be a source of support just as wages are taken into account in support obligations, rather than treated as a capital asset.

<u>Attachment of Pensions</u>

Section 24(1) of the Pension Benefits Act provides that monies payable under a pension plan shall not be assigned or given as security and are exempt from execution, seizure or attachment. Subsection 2 creates an exception for the attachment of monies payable under a pension plan in satisfaction of an order for support under the Family Law Reform Act.

Although the policy to attach pensions for support orders is clear, section 30 of the Family Law Reform Act may not accomplish that purpose. It provides that the court may make an attachment order directing the "employer of the debtor to deduct from any remuneration of the debtor due at the time the order is served or thereafter due or accruing due," the amount in the order. It is doubtful that pensions constitute "remuneration due." A trust company or insurance company rather than the employer may have the pension funds. There is no employer-employee relationship if the debtor is retired. In order to carry out the intent

of the legislation, consideration should be given to redrafting the section, preferably in consultation with the Pension Commission of Ontario.

CONCLUSION

It is clear that women as recipients of income from employment pension plans at the present time, either as survivors or as retired workers, have not been and are not generously treated. The extent of their claims on government support programs underlines this fact. This is not because the plans deliberately discriminate against women. Rather, women are in many ways victims - of their own longevity, (their small pensions will suffer from inflation for a longer time than those of men); of their position as non-working dependent wives, fostered by economics and social custom; of their traditional place in the work-force in subordinate roles at low levels of pay, often on a part-time basis; and of their frequent loss of pensionable service when husbands change employment location. Much of this situation has already changed, and much will change in the future. In planning for the future we must recognize these developments, and avoid tying the pension system to assumptions that are no longer representative of the status of women in society. That is not to say that pension design should be based on a single new stereotype, that of the career woman. Even today it is clear that a majority of married women do not fully conform to either the old or new stereotype. There still exists a wide range of dependency within the family unit; and the range of choice available to people both within and outside the family structure makes it probable that the average or typical Canadian married couple will make several changes in their economic relationship from time to time before retirement age. Accordingly, a realistic pension policy will have to accommodate, so far as possible, the various degrees of dependence and independence which spouses actually adopt for themselves.

Flexibility is required to let men and women adjust to their new needs in relation to each other. For example, to require a joint and survivor form of benefit for every pension plan could in the Commission's opinion be retrograde. Mandating an option to elect against a joint and survivor form of benefit on consent of both spouses allows flexibility in meeting the needs of both partners.

There are, however, some areas where new thinking is required to accommodate women in their role of workers. In retirement planning that means recognition of the child-rearing function through the CPP child-rearing dropout provision and coverage for part-time workers where a durable employer-employee relationship exists. It also means recognition that women's need for an adequate level of income in retirement is no different from that of men and requires equal pension benefits from money-purchase as well as defined benefit pension plans.

The Commission believes that adoption of its recommendations on these points will create a retirement income framework in which men and women will be on an equal footing.

NOTES

(1) Statistics Canada, Labour Force Annual Averages 1975-78, Table 1, pp. 9-12.

(2) Ibid., p. 16.

(3) Economic Council of Canada, People and Jobs: A Study of the Canadian Labour Market, 1976, p. 72.

(4) Labour Canada, Women in the Labour Force - Facts and Figures, 1976, p. 5-15, 18-23.

(5) Ibid., p. 37-39.

(6) Statistics Canada, The Labour Force, 1976 Annual Averages, pp. 99-102.

(7) Ontario Nurses Association, Brief 179.

(8) David G. Hirschland and Richard L. Tewksbury, Jr., "Sex as a Factor in the Pricing and Underwriting of Employee Benefits," International Foundation Employee Benefits Journal, Vol. 3, No. 2, Spring 1978, p. 27.

(9) ($100 x 20%) + ($120 x 80%) = $20 + $96 = $116.

(10) Foregoing 4 paragraphs from Hirschland, "Sex as a Factor," p. 26.

(11) Health and Welfare Canada, The Incomes of Elderly Canadians in 1975, February, 1979, p. 2.

(12) Ibid., p. 6.

(13) Special Senate Committee on Retirement Age Policies, Retirement Without Tears, Canada, 1979.

(14) Marilyn R. Flowers, "Women and Social Security: An Institutional Dilemma," American Enterprise Institute for Public Policy Research, Washington, D.C., 1977, p. 23.

(15) Senate Committee, Retirement, p. 94, citing S.B.C. 1978, c.20, s.45(1)(a) where family assets include "a right of a spouse under an annuity, or pension, home ownership, or retirement savings plan."

LIST OF TABLES

Chapter 17

Economics and Retirement Income

Throughout this report, frequent reference has been made to the cost of the different components of retirement income in relation to their necessity or desirability. For the most part, cost has been identified with a particular type of benefit. We have attempted to determine whether certain expenditures were justified and, if so, how their cost is charged or should be charged to governments, employers and individuals. As for the overall cost to society, it has been assumed, perhaps, that an appropriate total figure will simply appear at the end of the column - that is, by adding up the bill for all the appropriate types and quantities of retirement benefit. However, policy decisions made today involve an area of choice as to what the total eventual cost will be, and not only how much can be allocated to a specific program or programs. For this purpose it is essential to consider all the cost implications of providing income for the retired population. Within such a framework it then becomes possible to discuss what level of retirement benefits the country can afford, and through what mechanisms those benefits may be provided in order to attain results consistent with good economic planning. The economic views of the Commissioners are accommodated by the general consensus on the principles set out in this chapter, which, in turn, are reflected throughout the report.

ECONOMIC COST OF RETIREMENT INCOME

Any retirement income structure we may contemplate will be viable only if resources can be found to finance it. That is true for the individual who plans to set aside money during his or her working years to provide a nest-egg for retirement. It is also true for an employer and employees when setting up a pension plan for the group. It applies in a somewhat different way to the ability of government to transfer income to the elderly from other taxpayers. Beyond those problems, however, is the question of the resources needed to support an entire system of

retirement income. Regardless of how the system is constructed, all the income it produces will have to be generated by the use of the nation's resources; and its cost in a given year will be a charge against the value of all goods and services produced in that year by the active population.

In Volume V (Canada Pension Plan) and elsewhere, the Commission refers to present and future "dependency ratios" - measurements that enable us to assess the ability of the work-force to support those who have not entered the labour market or those who have left it for some reason, including retirement. The same analysis is applicable to projections of cost for retirement income taken as a whole. Obviously, tax-financed benefits are drawn from the incomes of those still active in the production of goods and services; so too are CPP/QPP benefits. What is less obvious but nevertheless true is that retirement income from employment pension plans and individual savings also comes from current production. Those who are entitled to pensions, annuities or lump-sum payments from non-government sources are making claims on the productive segment of the economy for interest and repayment of capital. Thus, all retirement income represents a "cost" to the economy in the year it is received.

At some point therefore it is necessary to consider the capacity of the economy to provide for all the income commitments made to those who have retired and those who will retire. We must also consider the various ways in which retirement entitlements are created; but it is important to understand that any income received by the elderly is a current liability - that is, it must be met by the active population out of current income, or possibly by equivalent means such as a reduction in saving or by additional borrowing. Society, in other words, assumes a set of obligations in recognition of value received from its members in a variety of forms: cash contributions, deferred wages, taxes, or some other form of participation in the economy (residence, for example, in the case of Old Age Security pensions). The total of all these obligations is analogous to a mortgage in that society expects to be able to make all payments on interest and principal out of its earnings in the future. Unlike a mortgage, the lenders in this case are not easily distinguished from the borrowers; and the size of the "loan" may increase quite unpredictably. Again, the mortgage analogy must be qualified by pointing out that society cannot contemplate any delay or default in meeting its commitments to the retired.

Retirement income, when payable, must therefore be related in a realistic way to the productive capacity of the economy, and to our future ability to allocate income from the productive population to the non-productive. If we wish to enhance the position of the elderly, we must anticipate either an increasingly productive economy or a shift in income distribution in favour of the older population. If in addition we foresee a significant increase in the retired population as a pro-

portion of the total, questions of work-force productivity become even more important.

That is not to say that the income claims of the retired should be regarded solely as an expense to the economy. Their incomes generally are spent promptly, thereby adding to rather than detracting from the Gross National Product. Also, a growing demand for goods and services to be purchased by retirement income dollars is a signal for investment in more plant and equipment to meet that demand. As a further bonus, pensioners' spending may be relied upon to cushion the effects of a recession; without it, overall consumption would suffer more severe downturns than otherwise, and both employment and investment would bottom-out at a lower level.

For purposes of long-range planning therefore, retirement income is properly regarded as a dynamic factor in the economy, and not merely as a drain on our productive resources.

Certain economic processes are particularly relevant to the question of how much retirement income can be provided and through what mechanisms. In the following pages we turn our attention to some facets of: saving and spending; economic growth; investment return; employment costs; and current economic prospects.

1) Saving and Spending

Fundamental to the future of any economy are the countless decisions of individuals and institutions as to how they will allocate their incomes between consumption and saving. If the economy is to grow, it requires some saving, or postponement of consumption, in order to acquire and replenish the capital facilities with which its natural and human resources are employed. Saving must come before investment, and investment must occur before there can be any increase in the total quantity of goods and services to be shared by the population. Thus, the standard of living depends initially on people's willingness to save and thereby bring about an increase in "real" output, in total and per capita.

Because pension plans today are based on a high volume of saving, their development has a direct bearing on the rate of investment we may anticipate over a prolonged period. Consequently, the means adopted for providing a higher level of retirement income may be directly instrumental in creating the future levels of national income that will make increased pensions affordable.

Judgments as to the optimum level of saving for an economy are not possible without examining the nature of investments that will be made, or without taking into account the need to maintain certain levels and types of consumption. Saving that is directed to expansion of energy-producing facilities will seem (at present) more conducive to

economic growth than similar amounts used to build new shopping centres. Public investment - in new transportation facilities for instance - has its place along with private investment in plants, mines and oil wells.

Spending must be kept in balance. Investment decisions are not made blindly but are based on expectations about the market for the goods and services that will be produced - the quantities and types people will buy and, not least important, when they will buy them. To encourage or force an ever-increasing rate of saving would be to risk a level of consumption so low that it would begin to discourage new investment. If investors lost interest in opportunities at home and looked increasingly to capital projects abroad, much of the purpose of striving for a higher domestic saving rate would be defeated.

Consumption in some respects serves the purposes of growth almost as directly as saving. Spending on education and health services may be classified as consumption, but most would agree that this type of spending has an "investment" element, even if we consider only the demands of industry for a healthier and more skilled work-force. To some extent, consumption today may also encourage saving, especially for retirement purposes. If we assume that people save for retirement in order to maintain their pre-retirement standard of living, then their willingness to save must be related in some degree to their present level of spending. Otherwise we would have to believe that personal retirement saving rises and falls primarily in response to interest rates, or is geared mainly to subsistence needs, or is a reflection of an irrational urge to hoard money. There is no evidence to support any assumption other than that retirement saving in the main expresses the desire of individuals for continuity of lifestyle into their retirement years.

Whatever the ideal balance between spending and saving, it should be clear that it is unlikely to be maintained from year to year regardless of current economic conditions. Personal and business saving behaviour responds to expectations for the immediate future. At the onset of inflation for example, individuals and businesses tend to spend more and save less, on the sound assumption that they will "save" by buying today rather than next year when prices will be much higher. Speculation is seen to promise a better return than conventional saving. This "inflation psychology" undergoes a change, however, as inflation persists. Over-spending in the early stages of an inflationary period is followed by under-spending later. People and resources eventually become under-employed or unemployed, and investment as well as spending decisions become increasingly cautious. Under those circumstances, a high rate of saving may be interpreted more as a sympton of uncertainty than one of a long-run preference for thrift. Furthermore, much of the additional saving that takes place in a period of economic uncertainty may not actually serve the purpose of promoting investment. Unless and until taken up by borrowers for capital purposes, savings will be absorbed by government through short-term borrowing and channelled for

the most part into consumption. With business as well as individuals displaying a reluctance to make longer-term commitments, the normal saving-consumption balance becomes distorted; what may appear as "saving" is not the same as investment, and may not in fact contribute to economic growth except by keeping the advance from turning into a retreat.

Any long-range policy which is based on saving as a means of achieving economic growth must allow for periodic fluctuations in the proportion of incomes people wish to save; or it must introduce some measure of incentive or compulsion to ensure that a desirable minimum rate of saving is maintained.

To relate these observations to the subject at hand, it is instructive to recall that retirement income at present is provided through a combination of programs, some legislative in nature, others essentially private, but all characterized by various degrees of voluntarism, incentives, and compulsion. Even personal saving for retirement has been brought into the scope of government influence through the medium of the RRSP, with its incentives and constraints. While this Commission prefers to enhance rather than further restrict the scope for individual decision-making in providing for and using retirement income, it is also mindful of the need for positive governmental measures to ensure a flow of savings into capital development. Our recommendations in Chapter 12 for a mandatory contributory pension plan are designed, therefore, with due consideration of the importance of saving in the economy - hence the element of compulsion - as well as the need to encourage individuals to take as much responsibility as possible for decisions affecting their income in retirement. We avoid measures which would lock people in to an unrealistically high rate of saving. Instead, our proposals leave ample room for governments to apply new saving incentives if and when needed to provide for an increase in the rate of investment. New areas of individual choice would be opened up, both within and outside of the PURS framework, thereby giving a measure of assurance that people's savings will be used in the most productive way.

2) Economic Growth

An economy is said to grow when it is producing an increasing volume of goods and services. The growth indicator most frequently used is real Gross National Product (GNP) - that is, the total value of goods and services produced in a given year, adjusted to remove the effect of price changes. The deflated or constant dollar GNP may then be used to show the year-to-year growth of the economy. (Sometimes, real GNP is stated in a more meaningful way by relating it to population to show changes in per capita output and potential living standards, or to the labour force, as an indicator of productivity.) After deducting indirect taxes, capital depreciation and other non-income items from GNP it is possible to compute national income, and to show the shares going

to wages and salaries, corporation profits, net income of farmers, professionals and unincorporated businesses, and investment income.

Table 1 illustrates how GNP is related to income and how national income in the year shown (1977) was allocated to the several main classes of recipient. Growth, however, is measured from year to year; and it is more useful for our purpose to look at the distribution of expenditures behind GNP figures. In a study prepared for the Commission, Donner and Lazar present the expenditure analysis set out in Table 2. Using percentage distributions to permit easy comparisons, he shows the main classes of expenditure for 1977, an estimated distribution for 1985, and projected annual rates of change for the main components over two periods: 1978-1985 and 1985-1990.

Table 1
Gross National Product by Component, 1977

	Billions of dollars(a)	Per cent of GNP
Wages and salaries	120	57.7
Corporation profits before taxes (and after dividends paid to non-residents)	20.6	10.0
Interest and miscellaneous investment income (before withholding taxes)	12.4	6.0
Net income of farm operators independent professionals, unincorporated business, and imputed net rent on owner occupied building	12.0	5.8
Less inventory valuation adjustment	(3.2)	(1.5)
Net national income at factor cost	161.8	78
Add indirect taxes (sales and excise) less subsidies	23.4	11
Add capital consumption allowance	22.7	11
Gross National Product at market prices	207.9	100

a Figures are for 1977 and rounded.

Source Canada Year Book, 1978/79.

Apart from what these projections may tell us about activity in certain sectors in the near future, Table 2 provides a reference point for comments on the overall ability of the economy to create wealth for

its members. However, an overall growth rate of 4.3 per cent forecast for the 1978-1985 period should be compared with a 4.4 per cent annual increase in real consumption (personal expenditure) and a 4.2 per cent annual increase in investment (gross fixed capital formation). Although the estimated data are subject to a considerable degree of error, the relationship of these three figures is significant when we see that the rate of growth is likely to decline to 3.6 per cent per year in the 1985-1990 period. Similarly, consumption is projected to increase at a slower rate in 1985-1990. The inference is clear: if consumption rises more rapidly than GNP or investment, the growth rate will decline, and with it the rate at which incomes increase to permit a constant increase in consumption.

Table 2
Projected Growth and Distribution of Real GNP (1971 Dollars) Components in Canada: 1978-1985 and 1985-1990

	Distribution		Average annual growth rate	
	1977	1985	1978-1985	1985-1990
	(Per cent)		(Per cent)	
Personal expenditures	63.2	63.3	4.4	3.6
Durable goods	11.1	11.6	4.9	
Semi-durable goods	8.9	9.1	4.7	
Non-durable goods	18.2	17.3	3.7	
Services	25.0	25.3	4.5	
Government expenditures on goods and services	18.2	16.4	3.0	3.6
Gross fixed capital formation	22.3	22.1	4.2	4.6
Government	3.2	2.7	1.8	
Business	19.1	19.4	4.6	
Residential construction	5.0	3.6	.3	
Non-residential construction	6.3	6.6	5.0	
Machinery and equipment	7.8	9.2	6.6	
Exports	23.0	24.7	5.3	3.6
Imports	-26.8	-26.5	4.2	4.6
GNP	100.0	100.0	4.3	3.6

Source Arthur W. Donner and Fred Lazar, "The Impact of Social Security Financing on the Capital Markets in the 1980s," Royal Commission on the Status of Pensions in Ontario, Volume IX (background papers).

Economic projections of necessity are based on measurements of past behaviour of individuals, businesses and governments; they do not speculate on major changes in government policy or on unpredictable future events such as the OPEC-induced oil crisis. They do serve, however, to demonstrate in general terms the operation and interaction of known economic forces. If we wish to see a sustained long-run rate of economic growth, for instance, our projections of real GNP and its

components tell us that the choice of strategies will focus on investment rather than consumption; and that means a somewhat higher level of saving than is likely to be sustained by the present inclinations of individuals, business organizations, and government.

Again it must be remembered that the potential level of retirement income from all sources will be determined in the first instance by the total amount of income the economy is able to generate and therefore share among its active and inactive members. Real growth is basic to an increase in real incomes.

3) Investment Return

Retirement income, if it is to fulfil individual and public policy expectations, must represent a real rate of return on capital and the return of that capital in real terms. In government programs that aim is achieved through the indexing of benefit entitlements: wage indexing before retirement in the case of CPP/QPP benefits, and price indexing after retirement in those and other programs. In employment and personal retirement plans, a minimum objective requires that funds earn a real return of possibly 2 to 3 per cent per year (that is, after excluding the inflation element of the nominal interest rate). Any prolonged period of inflation accompanied by inadequate investment yields (e.g., a 9 per cent return and a 10 per cent inflation rate) is an obvious threat to the viability of any non-governmental pension or savings plan. A defined benefit plan which promises pensions based on final average earnings will require higher levels of employer contributions in order to maintain its solvency; in extreme cases such plans may be unable to meet their obligations. But defined contribution plans and personal savings vehicles will also fall short of meeting the reasonable expectations of their participants. People who see the real value of their savings threatened by inflation are likely, if permitted, to seek other avenues for investment or spend their capital as soon as possible. A further complication is introduced where funds are tied in to long-term securities at comparatively low interest rates. Such securities, if sold before maturity, will produce capital losses; a rate of overall return which in real terms might have been simply unsatisfactory may turn out to be negative.

Over a long period, say 50 years or more, the real rate of return on good-quality investments is almost certain to meet the requirements of the typical pension or savings program. Because of market fluctuations, however, the picture for a particular pension plan or individual is often much less than ideal at the time asset values are to be translated into monthly benefits. These realities of the capital market underline the dependence of private sector retirement programs on a regular and sustained growth in the economy. Government action may be required to prevent some of the more destructive effects of short-run fluctuations in investment yields; for example, measures may be taken to keep interest rates above the inflation rate, and so prevent

an outflow of funds from savings vehicles or from the country. Such direct intervention in the capital market cannot be sustained over long periods, however, without impairing the ability of the market to perform its most important function, that of allocating money properly among many competing industrial and business ventures. Assuming that governments do not in fact take over an increasing share of responsibility for direct investment, pension planners must make adequate provision for periods of low returns - marginal real rates of interest as well as capital depreciation - and be prepared to add new money if necessary so that their programs will not fail in the short term to provide the promised benefits. Those whose retirement income is being generated in the form of capital accumulation (as opposed to defined benefits) must be better informed concerning the potential level of "real" income they may expect at retirement, and not merely the nominal value of their savings. It is important to the success of employment pension plans and other non-governmental arrangements that their participants not be misled by optimistic, long-range promises which, ultimately, may bear little resemblance to what individuals actually receive.

4) Employment Costs

Economic growth, as already pointed out, is made possible by saving from the current income stream and investing in further productive capacity. Part of the necessary saving comes from money earned by those whose input is in the form of work; but the major portion (typically much more than half) comes from business profits, or retained earnings, which are reinvested to expand existing operations or are used to finance other income-producing activities. Profitability is the objective not only of the business operator, but of society itself. Unless a firm is able to achieve a reasonable spread between its costs and its revenues, it may be unable to expand to take advantage of new business opportunities. It may fall behind in technological improvements and become less able to compete with other producers in the marketplace. Eventually, the owners may decide to sell the remaining assets and invest in a more profitable enterprise. Similarly, on a much larger scale, any widespread rise in costs without additional revenues would lead to a general slowing-down of capital formation, a consequent deterioriation in the ability of Canada to compete internationally and, eventually, an outflow of capital to foreign investment.

Employment costs alone do not, as a rule, determine whether or not a firm or an industry will survive in the domestic environment. In international trade, with certain labour-intensive exceptions, such factors as technology, cost of capital and availability of resources (e.g., energy) are often more important than wages and salaries in achieving profitable results. Nevertheless it is generally agreed that increases in the cost of labour input, unless offset by improvements in output, can have a negative effect on investment decisions and, eventually, on all incomes. Clearly then, society as well as the individual employer has an interest in keeping labour cost increases in

step with the ability of the business to absorb them and still generate a satisfactory profit.

Labour cost means all compensation, and obviously includes the employer's contribution to his or her own pension plan and to any public, mandatory plan or plans. If pension costs increase, either because of benefit improvements or any other factor leading to higher contributions, the employer will be less willing to initiate further improvements and perhaps unable to do so. Where a work-force has been cut back due to poor economic conditions, pension costs may present a more severe problem than otherwise. With older workers retained while younger workers are laid off, the average pension cost in a defined benefit plan is likely to rise sharply; and regular payments required to amortize any existing unfunded actuarial liabilities may not be reduced in proportion to the reduction in payroll. Even in the healthiest of firms, there must be an appreciation of the long-term cost commitment involved in implementing a pension plan: the fixed nature of costs for past service benefits, the pressure for higher benefit levels corresponding to higher wage levels, and the need to satisfy employees' needs for current compensation as well as retirement income.

Of all the many components of employment cost, the portion attributable to pensions is most likely to differ substantially from one employer to another, and therefore to be a factor in competition - in the market for the employers' products and also in attracting investment dollars. Differences in benefit levels may be the most significant factor, ranging from generous to none at all. But two plans with identical benefits and employee contributions can and often do display great differences in employer cost per member. Different age distributions and different amounts of past service are common. So too are the differences that result from the use of a variety of funding methods and actuarial assumptions, from past decisions to adopt a liberal or conservative funding strategy, and from good or poor investment returns.

Despite the obvious problems in determining longer-term cost implications and economic side-effects of specific employment pension plans, the need for retirement income related to the individual's earnings demands that some risk be taken. That means essentially that employment pension plans will be expected to meet certain regulatory standards but otherwise will be encouraged to perform a large part of the task of providing retirement income for members of the labour force. The roles of a mandatory minimum plan and the Canada Pension Plan, both discussed elsewhere, do not detract from that of a network of private programs designed to meet the diverse planning objectives of employers and their employees. The Commission believes it necessary that both employers and employees be encouraged to regard the provision of retirement income as a high priority in deciding the composition of the compensation package and in allocating current income.

Finally, it must be borne in mind that the saving represented by pension contributions is an important factor in economic growth. While that benefit to society must be regarded as a spin-off rather than a reason for instituting pension plans, the fact that new investment flows from these mechanisms sets them apart from other types of employment cost and qualifies them for special attention by those concerned with public policy in the area of retirement income.

5) Current Economic Prospects

In planning for the immediate future or the short-term, we must direct our attention to the economic feasibility of different rates and types of change within the framework of any longer-term pattern of retirement income provision. In looking ahead toward the year 2030 and beyond, the Commission has taken great care to anticipate the adverse effects of unwise decisions based only on perceptions of today's needs and conditions. The other side of the coin, however, is that a practicable long-range program can create a variety of dislocations in the short term. That is particularly true of any broad restructuring of social security measures, involving as it must a certain shift in patterns of saving, income distribution, employment costs, and tax policies. We must satisfy ourselves not only that the consequences of these changes make economic sense in the long run, but that their short-run consequences do not impair the nation's ability to carry out what otherwise would have been a reasonable and feasible program.

We are concerned at this time with a number of real and obvious economic difficulties: a persistently high rate of inflation, a rising level of unemployment, and a sluggish rate of private investment - to mention only the more prominent. Any additional cost to be borne by employers, employees, consumers or taxpayers will appear at first glance as something to be avoided or at least postponed. Certainly no one, least of all the members of this Commission, will deny that advances in social policy are premised on a healthy economic environment, or that our spending is limited by our means.

Rates of growth in the short and longer terms will determine the ability of the economy to fulfil its obligations to the retired as well as to all those who expect to maintain and improve their living standards. At this point therefore, we turn to a consideration of growth prospects and their implications for pension commitments.

As illustrated in Table 2, it is possible to make estimates of real rates of growth, using GNP calculations, and to predict at least the main patterns of expenditure which underlie the gross figures. These projections are developed in greater detail by Arthur Donner and Fred Lazar in their background paper on capital markets, reproduced in Volume IX. Their study includes a comparison, set out in Table 3, of real GNP projections made by the Economic Council of Canada in 1975 and 1977, the

Ontario Economic Council in 1977, and the federal Department of Finance in 1978.

Table 3
Comparison of Economic Projections for Real Growth in GNP

	1978-1985 4.3 per cent	1985-1990 3.6 per cent
Economic Council of Canada - 12th Annual Review - Projection A - 1975	1975-1980 5.7 per cent	1980-1985 3.6 per cent
Economic Council of Canada - 14th Annual Review - Reference Soln. - 1977	1977-1982 4.3 per cent	
Department of Finance - 1978	1978-1981 5.5 per cent	
Ontario Economic Council - 1977	1978-1981 5.0 per cent	1983-1987 4 per cent

Source Arthur W. Donner and Fred Lazar, "The Impact of Social Security Financing on the Capital Markets in the 1980s," Royal Commission on the Status of Pensions in Ontario, Volume IX (background papers).

Comparison of the estimates is not altogether satisfactory because of differing time periods. However it is significant that all the estimates for 1981 and beyond reflect a decline in the real growth of GNP after the early 1980s. The authors conclude:

> "As for the pattern of aggregate demand over this period, (1978-1990) durable consumer expenditures, exports, and energy-related capital projects will spark the economy up until the mid-1980s. In the second half of the 1980s, one may assume that demographic factors will constrain the economy to its full capacity growth rate (and the demographic factors will impact primarily on the economic projections through a slower rate of growth in the labour force). Thus this report concludes that Canada's economy will grow at an average annual rate of 4.3 per cent between 1978 and 1985, and at a 3.6 per cent rate over the balance of the decade. Business investment in machinery and equipment will also be strong throughout the decade, while housing expenditures are projected to lag behind the economy. Accelerated activity in the government and consumer spending sectors other than durables which occurred during much of the 1970s cannot be expected in the 1980s."

Since the making of these projections, a number of factors have combined to make the economic climate much worse. At time of writing some economists are predicting close to zero growth levels in the short

run. Whatever the degree to which real GNP will be affected by present economic conditions it seems safe to assume that real GNP will not expand rapidly, and that sometime about the middle of the 1980s there will be a falling off from previous growth rates. Support for this position is set out in detail in the Donner-Lazar paper. Some highlights may be noted here:

- There will be a shift towards private and public investment in energy undertakings through the 1980s. Estimates average about 5 per cent of GNP for the decade.

- Net family formation will decline as the baby boom cohorts age. As a result, demand for housing will decline and the residential construction sector will decline relative to other investment sectors.

- The strength of consumer spending in the 1980s will reflect the general strength of the economy. Real wage gains will decline as a result of only modest job creation, inflation, high savings rates encouraged by tax deferment incentives, and lower levels of confidence. Real consumer spending is likely to decline in the mid-1980s.

- Inflation will be met with more rigidity in the labour and product markets. Shorter contractual agreements and built-in defences against inflation will be demanded by the public.

- Investment opportunities will shift to the corporate sector, with real growth in non-residential construction and machinery, and accordingly there should be an increase in corporate bonds, equities and bank loans as a share of Canada's total financial assets. Mortgage investment opportunities will decline with the decline in residential housing demand. Provincial and municipal borrowing is likely to decline as deficits are brought under control.

- Capital funds will come more from savings by business and less from savings by government. Notable in the decline in the government share of investment is the drop in social security (CPP/QPP) savings as benefits tend to equal contributions in the middle 'eighties.

If we accept the validity of these conclusions and those of many other economists, it is clear that the Canadian economy will not enjoy high rates of real growth in the next 10 years or more. Retirement income planning for the 1980s and beyond must accept that reality and in particular must relate the cost of any proposed new expenditures to the ability of the economy to pay.

Admittedly the outstanding problem in this discussion is that of uncertainty. It is difficult enough to make long-range projections that enable us to set realistic objectives for retirement income planning. Today, however, we must also cope with an almost unparalleled degree of uncertainty in short-term projections. Without knowledge of how or when governments will apply various policy measures to assist the economy in resuming a more normal course, and without knowing the private sector's response to such measures, it would be futile to set a precise optimum date for the commencement of programs requiring increases in public or private expenditure. But it would be foolhardy to advocate no action at all, waiting instead for a theoretical state of perfect certainty which is probably unattainable.

Accordingly, the observations in this chapter are intended mainly as a check-list of considerations to be taken into account - first by governments when deciding on the specific timing and application of measures to restructure and improve existing arrangements for providing retirement income; and second, by the public when evaluating the recommendations contained in this report and assessing any policies that may be adopted.

It will be clear from this introductory section that the interrelation of retirement income with other economic factors is complex, at least in an industrialized society. It is a most patent fallacy to assume that the provision of income after retirement is simply a matter of one group receiving while the rest of society pays. Except for payments based strictly on need, people's entitlement to income in retirement arises in every instance from some contribution of value, tangible or intangible, over their lifetime. It could even be argued that needs-based payments represent a form of "insurance" benefit, paid for as part of the taxes which are built into the prices of the goods and services which everyone consumes, as well as through income taxes as and when people have income to be taxed. After retirement, incomes are still spent, saved, and taxed. In other words, retirement in no way implies a cessation of participation in the economic process that has generated one's retirement income. At the same time we have noted that the economy must be capable of generating sufficient income in any given year to support the total of all payments to the retired population, not omitting repayments of purely personal savings. For the purpose of defining the recipients of income it is therefore necessary to speak of an "active" and "non-active" population at a given time, while not forgetting that movement of people between the two groups is a normal state of affairs, or that payments to the retired are not "lost" to the economy.

While an aggregate view of retirement income is essential to much of our discussion (as in Chapter 8 where net replacement ratios are considered) a choice of mechanisms for providing that income involves other important economic questions. How much of the retirement income objective should be met through private savings channels? Through

government-sponsored contributory programs? Through direct transfers from tax revenues? The answers may be expressed first of all in terms of meeting the needs of the elderly - both real and assumed needs. But the most workable answers are those which also take into account other economic realities, including the future prospects for creating higher living standards generally and the many factors underlying that growth: investment, economic incentives to produce, individual freedom to choose between spending and saving, and so on. Thus, the way in which we may decide to allocate responsibility for retirement income planning among governments, the private sector and individuals, does not itself rest on any ideological preference; but it does rely on a realistic appraisal of the economic system, as it is today and as it is most likely to function tomorrow.

Because it is possible to foresee both a continuation of private sector financing and planning as major factors in economic growth, with government continuing to act primarily as regulator of an essentially voluntary economic system, it is logical to design a combination of retirement income programs which will best utilize the capabilities of both private and government sectors. It is also important to avoid freezing the retirement income system by formulating a single total-income commitment to everyone - a commitment that would remove all flexibility, and with it the opportunity to adapt retirement income mechanisms to the reality of changing economic structures. Accordingly, the retirement income system contemplated by this Commission is not impervious to change, although it is hoped that it will be less vulnerable than most to short-term political decisions.

SPECIFIC COST AND BENEFIT CONSIDERATIONS

Costs of specific government programs of pensions and income supplements are discussed in detail in Chapters 5 and 6 in this section of the report, and in Volume V (Canada Pension Plan). At this stage it is appropriate, in the context of a discussion of larger economic processes, to comment on the approach the Commission has taken to the problem of weighing probable cost against the desirability of various benefit improvements.

The following discussion begins with a review of the demographic projections presented in other parts of the report, and continues with observations on the several areas of possible benefit improvement and their cost implications.

Demographic Considerations

Cost estimates of pension promises, those already made and those society may decide to make in the future, require an informed guess as to the numbers of people who will receive the benefits. It is also necessary to estimate the proportion of total population that will

appear in the retired group, and the proportion that will remain in the active labour force and produce income to be shared with the elderly. A complete examination by the Commission is set out in Volume V. The number of people who will reach age 65 between now and 2045 is already determinable, subject to changes in mortality and immigration. Therefore we know within a fairly narrow range how many will be eligible for benefits, and their sex distribution.

The composition of the work-force (aged 20 to 65) during the same period is determinable for the segment already born. For the rest we must rely on estimates of the birth rate in future periods.

For reasons set out in Volume V, the Commission is not as pessimistic as some other commentators about future fertility rates. The baby boom "echo" resulting from the absolute number of births to members of the baby boom itself will have a positive effect on population growth, especially when we consider the rate of growth in the labour force. The CPP contributions of those in the "echo" group will be available to offset the additional pension cost of their parents' retirement. In fact the Commission's projections indicate that the baby boom serves to produce a lower cost for the CPP as currently financed for the decades before and after 2030 than would have arisen from a more normal rate of population growth in the post-war years.

On the Commission's most probable fertility assumption, which postulates a slight improvement in fertility rates in the 1980s before levelling off to the Statistics Canada rate of 1 (zero population growth) in the year 2000, we have projected population for Canada in selected years as follows:

Table 4
Population of Canada, Projections to 2050

	Total	65 and over
	(in millions)	
2000	31.6	3.4
2010	34.3	4.0
2020	37.0	5.4
2030	38.9	6.7
2040	40.6	6.8
2050	42.1	7.5

Source Royal Commission on the Status of Pensions in Ontario, Volume V, Appendix A-7.

The Commission's projections also show that the proportion of females to males will increase from the 56.3 per cent recorded for Canada in the 1976 Census to 58.2 per cent in 2050; for Ontario the figures are 58.1 per cent for both periods. However, as the following table shows, the female proportion will rise to a peak in 2000, fall back to 2025 and then resume its rise to 2050.

Table 5

Female as Percentage of Total Population by Age Group, Canada and Ontario, Selected Years, 1976-2050

	65-74		75-84		85 and over		Total 65 and over	
	Canada	Ontario	Canada	Ontario	Canada	Ontario	Canada	Ontario
	(Per cent)		(Per cent)		(Per cent)		(Per cent)	
1976	53.8	54.6	59.6	61.8	63.6	68.1	56.3	58.1
1990	55.5	55.4	60.4	60.6	68.4	70.1	58.0	58.2
2000	54.5	54.5	61.6	61.5	69.3	69.7	58.3	58.2
2025	54.5	54.6	60.6	60.6	69.4	69.5	57.8	57.9
2050	53.8	53.8	60.1	60.1	69.4	69.3	58.2	58.1

Source 1976 Census of Canada, Statistics Canada, Cat. 92-831, Vol. 1; and data prepared for the Royal Commission on the Status of Pensions in Ontario using the Royal Commission's most probable fertility assumptions.

According to these projections therefore, the sex distribution in the population 65 and over in 2050 will be the same in Ontario, and only marginally different (1.9 per cent) in Canada from what it is at present. However when these percentages are combined with the absolute numbers forecast, the dimensions become clearer.

The 1976 Census showed that for the population 65 and over, there were 251.5 thousand more women than men in Canada, 118.3 thousand more in Ontario. This differential is expected to grow over the period to the year 2050, and result in the figures set out in Table 6.

Table 6
Excess of Females over Males in the Population 65 and over, Canada and Ontario, Selected Years 1976-2050

	Canada	Ontario
	(Thousands)	
1976	251	118
2000	562	210
2025	951	357
2050	1,226	467

Source 1976 Census of Canada, Statistics Canada, Cat. 92-831, Vol. I, and data prepared for the Royal Commission on the Status of Pensions in Ontario using the Royal Commission's most probable fertility assumptions.

The implications for Canadian society from such a growth in numbers are important. Female pensioners of the year 2050 are likely to have spent considerable time in the work-force, unlike their mothers' generation; as a consequence, their benefits from CPP and individual pension sources will be higher, but their reliance on government support such as GIS and survivor benefits is likely to be a great deal less. The realities of women's work patterns, contribution to society, and resulting expectations of rewards from it will be a major factor in the pension scene in the next century. These factors were taken into account as far as possible in projecting costs for government programs in the future.

Old Age Security

Based on its population projections the Commission has forecast the future costs of the Old Age Security and its supplements. For detailed figures see Volume V, Appendix F. Expressed in terms of GNP, which is also projected on the Commission's most probable assumptions, the following trends are notable:

Table 7
Old Age Security in Canada, as a Share of GNP for Selected Years

	(Per cent)
1980	1.71
1990	1.59
2000	1.38
2010	1.17
2020	1.27
2030	1.28
2040	.99
2050	.88

Source Royal Commission on the Status of Pensions in Ontario, Volume V, Appendix F-1.

In the Table 7 projections the OAS is fully indexed to the Consumer Price Index only, and therefore its cost declines in relation to the GNP which in the projections is expanding by real growth in the economy. We see a trend towards an increase in the share of GNP in the years 2020 and 2030 reflecting retirement of the baby boom population. After 2030 the trend resumes its downward path. The same pattern is projected for Ontario.

GIS and Spouse's Allowance

The Commission's projections for the Guaranteed Income Supplement(1) and Spouse's Allowance, both with indexing to the Consumer Price Index, show a similar pattern (Table 8):

Table 8
GIS and Spouse's Allowance as a Share of GNP for Selected Years

	(Per cent)
1980	.62
1990	.49
2000	.33
2010	.34
2020	.32
2030	.32
2040	.24
2050	.20

Source Royal Commission on the Status of Pensions in Ontario, Volume V, Appendix F-4.

We note that the downward trend resumes earlier (2020) than for the OAS. This reflects the link between the CPP and GIS. With a maturing CPP, fewer of the population will require GIS for income support.

Maturing of the CPP is expected by the late 1980s, after the YMPE has escalated to the average wage level and that level has become fully reflected in the three-year averaging on which retirement pensions are based. Those receiving "mature" CPP/QPP pensions will account for a gradually increasing proportion of the elderly population; their higher incomes in turn will mean a significant long-term reduction in total expenditures for GIS and other income supplements for those 65 and over. Possible abolition of mandatory retirement and the splitting of CPP/QPP credits in the event of divorce would operate in the same direction and slightly lower the use of GIS. However, the effect of inflation on private pensions and annuities is to reduce their real value and thus increase claims on GIS. Post-retirement pension improvements in employment plans will not cover all losses due to inflation, and annuities from RRSPs and other arrangements do not in general increase with inflation.

Future expenditures on income supplements, taken separately, may be expected to be affected, marginally at least, by the way in which the income test acts to offset one type of benefit against another, and also by the operation of various tax credits. The new residence formula for OAS pensions (when phased in) will reduce the amount of OAS benefit payable to some in the over-65 group and so lead to an increase in claims for income supplements. On balance, however, it is reasonable to forecast a declining trend in costs for GIS and Spouse's Allowance in relation to the GNP.

To get some idea of the magnitude of the costs for OAS and GIS and Spouse's Allowance we may compare them with projections of cost for the CPP on a pay-go basis (see Volume V, Appendix D). Table 9 uses Canada Pension Plan figures only, as the Commission did not project costs for the Quebec Pension Plan. Consequently the results can be examined only in relation to CPP costs and not as a percentage of GNP. All projections are based on the Commission's most probable fertility and economic assumptions.

Table 9
CPP, OAS, and GIS and Spouse's Allowance (Canada less Quebec) as a Percentage of CPP Contributory Earnings in Selected Years

	CPP	OAS	GIS and SA	Total
	(Per cent)		(Per cent)	
1980	2.86	4.83	1.65	9.34
1990	4.61	3.90	1.15	9.66
2000	5.73	3.33	.93	9.99
2010	6.34	2.80	.75	8.89
2020	8.08	3.02	.77	11.87
2030	9.28	3.01	.72	13.01
2040	8.87	2.41	.55	11.83
2050	9.45	2.14	.46	12.05

Source Royal Commission on the Status of Pensions in Ontario, Volume V, Appendices F-2 and F-5.

From Table 9 we can see how the cost of total social security programs will tend to rise until 2030, drop slightly for the next decade or so and then begin to rise again. However, the share of cost of various programs will differ, with OAS, GIS, and GIS and SA declining as a share of the total. This results not only from the improvement in the economic status of those receiving GIS and SA but also because these benefits rise with prices rather than wage levels.

GAINS

In addition to its share through taxes of the federal government programs, Ontario must also consider costs of its own programs. The Commission has not made projections for the cost of GAINS. However, we can see from the Ontario Financial Report for the year ending March 31, 1979 that total GAINS payments for the year were $99 million. This figure includes payments for certain classes other than those 65 and over, but the total amount took up only slightly more than one-tenth of one per cent of the Gross Provincial Product of $90,250 million, for the year ending December 31, 1978. As the Canada Pension Plan matures, we may expect GAINS to decline in importance in the same fashion as the GIS.

Other Ontario Benefits

Figures in the Ontario Financial Report for the cost of other benefits were not broken out for those 65 and over. These other benefits for the fiscal year ending March 31, 1979 were as shown in Table 10.

Table 10
Selected Benefit Costs, Ontario, 1978-79

	(Millions of dollars)
Family Benefits Act and General Welfare Assistance Act	586
Ontario Drug Benefit Plan	89
Housing Subsidization	92
Ontario Tax Credits	434
OHIP Premium Relief	340
Total	1,541 (1.7 per cent of GPP)

Source Province of Ontario Financial Report 1979.

Total direct income support payments to all low-income residents (including GAINS) totalled 1.8 per cent of GPP.

Budget Paper B appended to the Ontario Budget 1978 dealt specifically with estimated cost relief to Ontario pensioners (presumably those 65 and over) for the fiscal year ending March 31, 1978. Although the figures in Table 11 cannot be compared directly to those in Table 10

they do provide some help in realizing the extent of assistance to Ontario's older population through programs other than GAINS.

Table 11
Cost Relief to Ontario Pensioners, 1977-78

	Cost in millions of dollars
OHIP Premium Waiver(a)	154
Ontario Drug Benefit Plan	73
Subsidized Nursing Homes(b)	130
Subsidized Homes for the Aged(b)	109
Subsidized Housing(a)	54
Total	520

a Includes spouses under 65 and any other other dependents.
b Cost shared with the federal government.
Source Ontario Budget 1978.

Health Costs in the Future

A large part of the costs in Table 11 relates to health care. It has been suggested that with the growth in numbers of those 65 and over and the increase in the ratio of this group to the 20-64 age group, health costs will explode in future years. The report of the Ontario Council of Health in 1978, Health Care for the Aged, indicates that this is not necessarily so. It points to the changing age structure of the older population of Ontario. Based on the population projection of Statistics Canada the report notes:

> "In brief, the number of persons who will be between 75 and 79 years of age and in the age groups over 80 will increase proportionately at a faster rate than those in the younger groups among the older population, that is those 65-69 and 70-74 respectively. For example, those persons aged 65-69 in Ontario will increase between now (1976) and the end of the century by 54.4 per cent; those between the ages of 80 and 84 will increase by 97.1 per cent; and those who are 90+ years will increase by 191.3 per cent."(2)

The Council also stressed the need to design programs for the various segments of the older age groups and to avoid assuming all over 65 to be alike. They explain:

> "It is increasingly recognized that Canadians 65 to 74 years of age are, as a whole, relatively problem free. The majority are still married, friends of the same age are living, they are in relatively good health and are managing reasonably well economically because of two or more pensions. After age 65, the problems of ill health, widowhood, loneliness, poverty and so on are all fairly generally

on the increase and similarly with the need for health and social services. As age increases the need for and the prospect of institutionalization increases. Data from the United States and the United Kingdom indicate that those past 78 are about three times as likely to be residing in an institution as those in the age group 65-74."(3)

Based on the fact that the "young old" group (65 to 75) are better educated, better off and healthier, we may expect that this group will be less of a burden on the productive group of society, both for income support and health care, than it is, relatively speaking, at the present time. The "old-old" (85 and over) however will increase at a faster rate proportionately by virtue of the same conditions and will require more care. On balance, it is possible to forecast that health costs for the oldest segment of the population will be somewhat offset by the decreased requirements of those 65 to 75. While costs of health care will rise, the increase can be controlled by planning now for more effective delivery of health care.

Effects of Inflation

OAS, GIS, and CPP retirement benefits in payment are fully linked to increases in the Consumer Price Index. How will continuing high levels of inflation affect the costs of these programs? In its projections for each program, the Commission had the cost broken out for the benefit without indexing, and the indexed portion.

Table 12, based on the Commission's most probable fertility and economic assumptions, shows how OAS costs are affected by inflation. Our projections express expenditure as a percentage of GNP.

Table 12
Old Age Security, Canada, Projected Expenditures, Selected Years, as a Percentage of GNP

	Non-indexed	Fully indexed
	(Per cent)	
1980	1.58	1.71
1990	.88	1.59
2000	.52	1.38
2010	.30	1.17
2020	.22	1.27
2030	.15	1.28
2040	.08	.99
2050	.05	.88

Note Based on the Royal Commission's most probable economic and fertility assumptions.

Source Royal Commission on the Status of Pensions in Ontario, Volume V, Appendix F-1.

In addition, the Commission made projections based on its low/low fertility assumptions and its high economic assumptions - assumptions which, taken together, would seem to represent the worst position possible for the future. The results are found in Table 13.

Table 13
Old Age Security, Canada, Projected Expenditures, Selected Years, as a Percentage of GNP

	Non-indexed	Fully indexed
	(Per cent)	
1980	1.52	1.69
1990	.71	1.57
2000	.35	1.39
2010	.17	1.24
2020	.11	1.38
2030	.06	1.46
2040	.03	1.19
2050	.01	1.00

Note Based on the Royal Commission's low/low fertility and high economic assumptions.

Source Royal Commission on the Status of Pensions in Ontario, Volume V, Appendix G-8.

Comparison of the figures in Tables 12 and 13 must be done with care because with the differences in fertility rates we have no constant base to which to apply the change in the indexing. GNP projections are also affected by the fertility rates. However we can see that the cost of a fully indexed OAS by the year 2000 is nearly 3 times the non-indexed benefit under the Commission's most probable inflation assumption, (Table 12) and four times the non-indexed benefit under the higher inflation assumption (Table 13). By 2030 the total cost is eight and a half times the non-indexed benefit on most probable inflation (Table 12) and 24 times on the high inflation assumption (Table 13). Keeping in mind that the two inflation assumptions are 4 per cent and 6 per cent, it is readily apparent what an expanding impact continuing inflation at high rates would have on the cost of the benefit. The two tables also indicate how different rates of inflation would affect the value of the benefit to the recipient group in relation to GNP. A non-indexed OAS pension would obviously lose its real value more rapidly with a higher inflation rate. Under either inflation assumption the benefit is seen to become virtually worthless in two or three decades without some form of indexing.

Table 14 shows a similar breakout for indexing and non-indexing of the CPP, as currently financed, as a percentage of contributory earnings.

Table 14
Canada Pension Plan Retirement Benefits Only, as a Percentage of CPP Contributory Earnings

	Non-indexed	Indexing Component	Total
	(Per cent)	(Per cent)	
1980	1.44	.28 (16)(a)	1.72
1990	2.27	.74	
2000	2.85	.99	
2010	3.21	1.11 (25)(a)	4.32
2020	4.43	1.47	
2030	5.16	1.89	7.05
2040	4.63	1.99	
2050	5.19	2.01 (28)(a)	7.20

Note Based on the Royal Commission's most probable economic and fertility assumptions.

a Figures in brackets represents the percentage of the indexed portion of the total.

Source Royal Commission on the Status of Pensions in Ontario, Volume V, Appendix C-1.

From Table 14 we can see that the portion attributable to indexing rises from 16 per cent of the total in 1980 to 28 per cent in 2050. Since CPP benefits reflect movements in the Average Industrial Wage up to retirement, the Consumer Price Index element is a less significant part of the overall cost than it is for OAS, GIS and the Spouse's Allowance.

Wage and Price Indexing

As we have seen, government programs are indexed in some way to cope with loss of purchasing power resulting from inflation. OAS, GIS and SA are increased in line with increases in the Consumer Price Index while CPP pensions are indexed to the Average Industrial Wage up to retirement and thereafter to the CPI.

Some briefs to the Commission have called for indexing government programs to wages so that recipients will share in the productivity gains made by the economy after their assumed withdrawal from the work-force. The Commission would not favour such a change. We have seen how indexing to the CPI affects the cost of the OAS and the CPP, and to move to wage indexing would be even more costly. Before undertaking additional costs one must examine the goal of indexing.

Because the promise for retirement income continues over a number of years it is usual in government programs to build in an adjustment to ensure that the principles of adequacy and replacement will be satisfied. With the OAS, GIS and SA the government role is to provide a

minimum which will be adequate in retirement. In the Commission's opinion it is necessary for ensuring continuation of adequacy that the minimum be increased with increases in the CPI. That assurance of consumption adequacy is sufficient in our opinion for government programs which, in addition to their retirement income objectives, must also allow room for sufficient economic incentive to the active population.

Wage indexing before retirement, however, may be consistent with the replacement goal, as in the CPP where initial benefits are linked to the AIW. After benefits commence, indexing to the CPI is all that is necessary to maintain the consumption level in retirement.

It should be noted too that where wage indexing is in place its cost cannot be linked solely to each year's GNP. Therefore in making any promise for wage indexing the impact over the long term of what is promised must be carefully assessed.

The Commission believes that retirement income provision at low levels of income should be related to need only. The universality of the OAS runs counter to this but probably must be continued on a universal basis because of the former earmarked taxes.

Increasing CPP Benefits

Many of the briefs to the Commission suggested that the benefit structure of the CPP be increased to a higher percentage of the Average Industrial Wage. Although the CPP is now paid for out of contributions by workers and employers it is necessary to consider the cost to the economy of such proposals. Since the CPP is not fully funded it represents for the most part an immediate transfer from the productive to the non-productive portion of the population. The Commission has carefully considered in Volume V the cost effects of the CPP in light of demographic trends and inflation, and has concluded that with a reasonable rate of growth in the economy in the future the present benefit structure (based on 25 per cent of contributory earnings up to the AIW) is viable without requiring undue demands on the work-force of the future. However to improve the benefit structure of the CPP either on its present funding basis or on a fully funded basis would have major implications for the economy.

The CPP is presently partially funded and its current cost is paid partly from earnings on the fund. On the premise that the partial funding is a charge on the GNP it appears desirable to move to full funding; but the Commission has rejected this approach for the several reasons set out in Volume V of the report. The consequences of this for the GNP are discussed in the Donner-Lazar paper on the capital markets in Volume IX of the report. Because of the large indebtedness of the various provinces to the CPP it seems impossible or undesirable in terms of cost to alter substantially the existing financing of the

CPP. However to compound these difficulties by increasing the benefit structure of the CPP now or in the future in the Commission's opinion would be unwise.

As an alternative, the Commission proposes a mandatory employment pension plan with a money-purchase design. Over the long term a significant improvement in the level and distribution of benefits will be achieved. At the same time, the fully-funded basis of this plan will contribute to the capacity of the economy to grow and therefore produce the promised retirement income.

CONCLUSIONS

The following points should be taken into consideration when any planning is done for retirement income provision. To ignore any of them is to court economic consequences which the Commission believes in the long run are unacceptable.

Without any improvements in existing benefit levels and design of government programs, OAS, GIS and SA, and GAINS, demographic trends indicate additional costs both because of longer life expectancies and trends towards a greater proportion of women than men surviving into retirement. Continuing inflation and benefit indexing also mean higher costs for existing programs.

This cost burden can be borne easily or with difficulty depending

a) on the size of the work-force, which will in turn be affected by birth rates, immigration and emigration and work-force participation rates; and

b) on the productivity of the work-force, i.e., its ability to provide a real rate of growth in the Gross National Product.

Forecasts for real growth in the GNP during the 1980s generally agree that growth will be slow and will not return to the rates of growth experienced in the 1960s. Some predict zero growth for the early 1980s.

Real growth in GNP is dependent in large measure on capital investment which is fostered by long-term savings. To the extent that government increases its share of GNP by transfer payments and financing of its deficit through personal and corporate income taxes, the amount of GNP available for long-term capital investment will decrease, and with it the productivity of the work-force (the measurement of real growth in GNP). The lower the productivity the greater the burden of existing programs on the work-force.

The overall effect of these factors in the opinion of the Commission is to create a climate for the 1980s in which any increases in existing government programs should be approached with great caution. It is a time, the Commission believes, when, recognizing that our resources for these programs are not limitless, we should husband those resources and live with the realities of the 1980s. Two ways of doing this are clear to the Commission.

First: Any increases in existing government programs should be allocated on a needs basis only. This means that the OAS need not be increased on a universal basis; that net replacement ratios are an essential approach in assessing needs; and that indexing to wages, post-retirement, need not be instituted.

Ontario is in a position now to control future costs for its elderly by making policy decisions on a needs basis only. Detailed cost considerations are set out in Volume I, Chapter 6. It is important for the Government of Ontario to resist any new proposals for its programs which could be universal in nature, and also to reduce universality in existing programs as far as possible.

Second: Any increases should be costed on a realistic basis to reveal in detail both present cost and projected cost. These costs must then be set into the framework of the share of GNP required to cover such costs, and the effect such allocation will have on capital investment. Real growth in GNP should be monitored with care to assess how much can be set aside for retirement income provision both from present consumption and savings.

An example of a policy change recommended by some which requires such cost assessment is the lowering of the age at which government programs are made available. Dr. Pesando discusses some of the economic implications of such a move in his paper on "Trends in Retirement Age" printed in full in Volume VIII of this report. His analysis does not include any calculations as to actual cost but points out where shifts in cost might take place. From this it can be seen that however popular an age reduction might be politically, its cost implications are far-reaching and may not be what Canada in the 1980s can afford in relation to other measures.

An even more cogent example is found in the Canada Pension Plan. Increasing the CPP is advocated by many as a quick, efficient, and politically feasible answer to a number of perceived needs for retirement income. The Commission has examined and rejected this option as inconsistent with the realities of cost and economic consequences outlined above. The greatest weakness in such an approach, the Commission believes, lies in its economic consequences for the future:

1. Present contribution rates for the CPP result in a buildup of funds from the excess over benefits paid. To this extent the CPP represents savings, at least, insofar as they have been invested in productive assets and have not simply replaced provincial taxation. If no changes are made in the contribution rates to CPP, the savings accumulated since 1966 will gradually disappear around the year 2000. If benefits (and presumably contributions) are increased, CPP savings will increase proportionately during the period when contributions exceed benefit payout. The amount of savings and the period of their accrual would depend on various factors and would not necessarily coincide with the present forecasts of "critical years."

   Much controversy has raged over the utilization of these savings in the CPP. If one believes that the savings have in fact encouraged government spending rather than investment, then increasing the monies available to government for these purposes could serve to expand the money supply once more and fuel more inflation. If changes can be made to allocate the savings into capital investment an increase in saving could result in real growth in GNP.

   The Commission is not persuaded, as discussed in detail in Volume V, that the mechanisms exist for controlling the use of savings in the CPP over the long run to ensure their use as capital investment funds.

2. Because CPP cost is now below the contribution levels and should continue to be until the middle 1980s and after, depending on real growth rates in the GNP, we have an opportunity to put in place a plan which will in the long run provide retirement income built on private capital investment. The PURS plan recommended by the Commission, while requiring a long time to mature, will provide directly for long-term investment which will be allocated through the private capital markets. The additional capital investment will generate real growth in the GNP. The government will be required to borrow at market rates rather than under artificial rules set up under the CPP. Thus, PURS will increase real earnings before retirement and will provide the resources to pay pensions after retirement.

3. Part of the appeal in increasing the CPP is the apparent low cost of doing so. Various subsidies have been available in the CPP (such as full pensions after only 10 years' contributions) which make a CPP pension look inexpensive. The Commission expects some upturn in the birth rate to ease the intergenerational burden implicit in the funding design of the CPP. However the real problem arises from the single fact that the true cost of CPP benefits is obscured. To increase the

CPP on this same basis is only to continue to ignore true costs. Again, the PURS plan recommended by the Commission puts the cost-benefit relationship in clear perspective. If the economy prospers, real rates of growth will enhance the benefits accruing under the PURS plan. Each person will pay for his or her own pension and will also benefit from his or her own contributions.

4. Continuing or increased emphasis on the position of the CPP in a retirement income system, so long as the cost-benefit relationship is not equalized, has a little-realized effect on the whole field of retirement income provision. As we have seen in Volumes VI and VII, the employment pensions provided for employees of the public sector occupy a very large part of employment pension provision. Costs of these pensions are a concern of the Commission and of the public. Nearly all of these plans are integrated with the CPP. Any increase in the benefit structure of the CPP therefore without providing for payment of the full cost of the CPP benefit now (i.e., full funding) would result in a lower cost to the public sector for the portion of its pension promise covered by the CPP. The result would be to obscure further the cost of public sector pension promises. The Commission is of the opinion that cost controls for public sector pensions are imperative and that the basis for such controls is an ability to identify the true costs.

5. Increasing CPP benefits also brings with it automatic inflation protection and therefore higher costs. We have discussed in Volume V the effect of inflation on CPP costs. In simply increasing the CPP more issues are raised as to how much inflation protection is needed and how it is to be handled.

We have referred to the almost unprecedented degree of economic uncertainty which faces Canada as we move into the 1980s. Policy decisions made in the next few years in the area of retirement income provision must take into account that uncertainty by avoiding commitments, especially in new government programs, involving large additional claims on current income for consumption purposes. At the same time, it is necessary that we identify and attempt to deal as promptly as possible with the income needs of the elderly, and take steps to inaugurate a retirement income system that will progressively improve the financial security of the retired population, present and future.

Consistent with that aim, the Commission has arrived at a strategy which leaves government with a well-defined role of ensuring adequacy of retirement income at age 65 and the private sector with an enlarged role in assisting individuals to provide for continuation of lifestyles after

retirement, with as much choice in timing of retirement and level of retirement income as the system can reasonably provide.

On the government side, it is essential that initiatives in carrying out this strategy be based on a demonstrated need to achieve income adequacy, and not on an extension of the universal approach. And in both the public and private sectors there is a need to determine and disclose the costs involved in any program that is to be instituted. We must not be induced to make or accept pension promises for which we are not prepared to pay, directly or indirectly.

NOTES

(1) Projections based on levels in force at January 1, 1979.

(2) Report of the Ontario Council of Health, <u>Health Care for the Aged</u>, 1978, p. 22.

(3) Ibid., p. 36.

LIST OF TABLES

Chapter 18

Constitutional Issues and Retirement Income

PENSIONS AND THE CONSTITUTION

Pensions are not specifically referred to in the British North America Act, 1867, which established the distribution of legislative powers between the Parliament of Canada and the provincial legislatures. Since no explicit constitutional provision existed, jurisdiction over employment pensions has been assumed by the provinces through their power to legislate in matters affecting property and civil rights. Legislation in the area of public pensions (government programs) has developed through a sharing of jurisdiction, in practice and by virtue of constitutional amendment. Pension development both in employment pensions and government programs, has been and still is characterized by a high degree of co-operation not only between the provincial and federal governments, but among the provinces themselves.

GOVERNMENT PROGRAMS

Before passage of the Old Age Pensions Act in 1927, income for the elderly was provided through municipal relief or private charity. The British North America Act (sec. 92.7) granted the parliament of each province the exclusive power to legislate with regard to the "establishment, maintenance and management of hospitals, asylums, charities, and eleemosynary institutions in and for the province, other than marine hospitals." No provision existed for social security as we know it today; hence this clause was regarded as the constitutional basis for legislation in respect of government pensions.

The 1927 act authorized the federal government to enter into an agreement with the provinces to pay half the cost of pensions paid under provincial legislation. The province was assumed to have jurisdiction; therefore without provincial participation there could be no old age

pension. Ontario joined the program in 1929, but it was ten years before all the provinces were participating.

This was the situation until 1951, when the 1927 Act was replaced by the Old Age Security Act, which provided a universal pension at age 70, and the Old Age Assistance Act which provided an income-tested pension for those aged 65 to 70. A constitutional amendment was required to permit these programs. This was the second amendment to the BNA Act involving social security legislation; a previous amendment had been made (in 1940) to accommodate the Unemployment Insurance Act. (This Federal scheme was first enacted in 1935 but was found by the Supreme Court of Canada and the Privy Council to be beyond the legislative competence of Parliament). Section 94A was enacted to provide that: "the Parliament of Canada may from time to time make laws in relation to old age pensions in Canada, but no law made by the Parliament of Canada in relation to old age pensions shall affect the operation of any law present or future of a Provincial Legislature in relation to old age pensions." Thus, provincial paramountcy was assured and the federal government could proceed with the old age security programs. The provinces remained free to enact their own income programs for the elderly. Six, including Ontario (GAINS), have introduced income supplements for needy persons over 65.

The Old Age Security pension was financed originally by a special tax, while the income-tested Old Age Assistance was a shared-cost federal-provincial undertaking. Subsequent developments saw a reduction in the age requirement for the universal OAS pension from 70 to 65; a consequent phasing-out of Old Age Assistance; and a federal program of income supplements for needy Old Age Security recipients.

When the Canada Pension Plan was first introduced in the House of Commons in 1963, the federal government had the constitutional authority to enact an earnings-related contributory pension plan without provincial consent by virtue of Section 94A of the BNA Act. However it was proposed that the benefits payable should include survivor, death, and disability benefits. Inclusion of these benefits required provincial consent since they were not specifically old age pensions.

Lengthy negotiations with the provinces eventually resulted in the Canada Pension Plan and a parallel Quebec Pension Plan. The BNA Act was amended by the re-enactment of Section 94A as follows:

> "The Parliament of Canada may make laws in relation to old age pensions and supplementary benefits, including survivors' and disability benefits irrespective of age, but no law shall affect the operation of any law present or future of a provincial legislature in relation to any such matter."

The Canada Pension Plan was established by a federal act, which applies unless a province establishes its own plan. The provincial plan

must provide benefits "comparable to those provided under the Act." The CPP and QPP are comparable but not identical, e.g., the QPP provides for a child-rearing dropout. The plans are interrelated with regard to recognition of contributions and benefits.

Any amendment altering a level or class of benefits, rates of contributions, contribution or benefit formulas, operation of the CPP Account or Investment Fund or the CPP Advisory Committee cannot come into effect unless: "the Lieutenant-Governor in Council of each of at least 2/3 of the included provinces, having in the aggregate not less than 2/3 of the population of all of the included provinces, has signified the consent of such province thereto." Ontario, with over 2/3 of the population of the included provinces (all provinces except Quebec) has a veto over changes to the CPP. Quebec may amend the QPP subject to the comparability requirement. Federal-provincial co-operation was required for the constitutional amendment, the design of the legislation, and the operation of the program. The CPP is designed and operated as a joint program.

Although the provinces have the primary legislative authority in the area of government pensions, the federal government has assumed the leadership historically. The federal role is enhanced by the spending power of the federal Parliament. The end result is a combined federal-provincial role in government pensions for the elderly. However, the federal government alone provides the bulk of income to the needy elderly.

The 1979 Task Force on Retirement Income Policy (Lazar Report) considered the advisability of withdrawal by the federal government from the area of income-tested programs on the ground that the provinces are responsible for social assistance policies, and also because of variations in need from one province to another. The Task Force pointed out that the federal government has an accepted role in maintaining minimum national standards for the elderly, and its withdrawal might run counter to any plans for a more broadly based federally-administered guaranteed annual income program.

The Commission recognizes a consensus that the aim of ensuring a basic level of income in retirement to the needy elderly is best served by a national approach. The provinces have agreed to share this power, while reserving their legislative authority. Overall, in fact, the provision of retirement income by government programs has been a shared responsibility and co-operation has been effected.

Employment Pensions

Employment pensions are essentially a matter of provincial jurisdiction as "property and civil rights in the province." However, pensions for federal government employees and employees of companies regulated by federal legislation such as banks are governed by federal

legislation. Federal civil servants are members of the Public Service Superannuation Plan and pension plans for employees of federal undertakings are governed by the Pension Benefits Standards Act (Canada).

In addition, the federal government exercises considerable control through its power, under the Income Tax Act, to accept pension plans for registration to qualify for deduction of contributions and exemption of investment income for tax purposes (as described in Chapter 14).

Six provincial governments (Alberta, Manitoba, Nova Scotia, Ontario, Quebec, and Saskatchewan) have enacted legislation regulating pension plans. These acts are similar; all require plans to be registered with a provincial authority and comply with standards of vesting, solvency, investment, and disclosure. Relevant provisions of the Ontario Pension Benefits Act are discussed in Chapter 13; also in Chapter 8 (vesting) and Chapter 9 (funding, solvency).

The first provincial pension legislation, indeed the first private pension legislation in North America, was enacted by Ontario in 1963 following the report of the Ontario Committee on Portable Pensions. The pension legislation did not come fully into effect until January 1, 1965. Prior to this time, the only regulation of pension plans was that exercised indirectly by the Department of National Revenue. Contributions to plans had been deductible since 1917 but regulation was slight until 1947. At that time, guidelines were issued dealing with vesting (required at age 50 with 20 years' service) and funding. Regulation of vesting was discontinued in 1959 when the federal government's power to regulate vesting was attacked on constitutional grounds.

Federal control continues to be extensive through the enactment of a detailed set of guidelines at the taxation administrative level. These information circulars deal with many aspects of plan design including funding, investment of plan funds, and payment of benefits. In certain areas the tax guidelines are quite detailed, especially on some topics not covered by provincial legislation. For example, the current information circular (No. 72-13R6) deals extensively with the maximum pension benefit and other benefits allowed, retirement age and contributions - all matters not dealt with specifically in provincial legislation. There has been no constitutional challenge to the departmental rules.

The goals of tax policy and pension benefits policy are not identical. Certain conflicts exist. For example, in setting actuarial assumptions, the tax guidelines prevent the adoption of salary scales exceeding the assumed interest rate, while pension benefits legislation favours more realistic salary scales. Pension benefits legislation must therefore be in concert with tax policy to preserve tax deductibility. The need for reconciling the two somewhat different approaches is recognized in the practice of consultation between taxation and provincial supervisory authorities - not on specific cases (because of the need

for confidentiality) but on a workable approach to certain classes of administrative problem. Barring a constitutional challenge at one level or the other, this co-operation is likely to continue. At present, therefore, none of the apparent conflicts seems to represent a practical obstacle to effective administration.

Uniformity of Employment Pension Legislation

In a country where authority is decentralized among the provinces, a uniform legislative approach is necessary for matters affecting businesses which operate in more than one province and people whose job locations change from one province to another. Employment pensions in particular, involving as they do both employers and employees, require a high degree of uniformity as to legal provisions and administration.

Three aspects of uniformity should be commented on. The first is a uniform position on whether the rights and obligations arising out of employment pension plans should be the subject of legislation. Of a possible eleven jurisdictions including the federal government, seven have pension benefits legislation. New Brunswick, British Columbia, Newfoundland, and Prince Edward Island have no comparable legislation. As a result, employees moving from a jurisdiction with no legislation into a jurisdiction with legislation have no protection for pension credits in the jurisdiction without legislation. Even with complete uniformity of legislation and regulation in seven jurisdictions, a pension system would not be possible. It is to be hoped that British Columbia which has been considering pension legislation for some time will see fit to pass a Pension Benefits Act soon, and that New Brunswick, Newfoundland and Prince Edward Island will follow suit. The way would then be open for effective uniformity in the two other aspects: policy and regulation.

Uniformity in policy and uniformity in regulation are not always clearly distinguished. We may take vesting as an example. Whether or not there should be preservation of pension rights on termination is a matter of policy. The extent of that protection is also a policy matter in setting the vesting rule or conditions to be satisfied before rights are preserved. The application of the vesting rule in specific situations is then a matter of regulation.

The seven jurisdictions with pension benefits legislation have worked out arrangements for uniform administration, and common registration procedures are in operation.

The Ontario Pension Benefits Act (Section 10) provides that the Pension Commission of Ontario may enter into agreements with the authorized representatives of a designated province or the Government of Canada to provide for the reciprocal registration, audit, and inspection of pension plans. The Pension Commission has so designated Alberta, Quebec, the Northwest Territories and Yukon Territory, Saskatchewan,

Manitoba, and Nova Scotia, and has entered into reciprocal agreements with each, as well as with the Government of Canada. By such agreements plans are registered in the province or jurisdiction where the plurality of members are employed, and the registering authority undertakes to apply the law of all other authorities having jurisdiction in respect of a particular plan.

Common registration procedures have worked well in practice, but there is now considerable concern about the preservation of uniform regulations. The Canadian Manufacturers' Association (Brief 210) referred to the fact that many employers have operations in several provinces and therefore it endorses "the principle of uniform standards and legislation covering private pension plans."

The Trust Companies' Association (Brief 361) stated

> "One of the primary objectives of Federal and Provincial legislation in the pension field was to develop uniform rules and requirements across Canada, so that pension administration could be organized to allow plan sponsors whose operations extend beyond a single province to file with only one regulatory authority, namely that of the jurisdiction in which the majority of employees are located.
>
> "While this principle has been well stated, the practical application of it is quite another matter. Pension legislation itself has become more comprehensive and complex, and the variations among the several pension jurisdictions have increased and added to the complexity. The application of human rights legislation to employee benefits has compounded the problem. This situation should receive serious consideration, as it is a deterrent to the encouragement of private pension plans."

Among the existing differences in provincial and federal legislation are:

Vesting

Manitoba differs from the other provinces having pension benefits legislation, and Canada in providing conditional vesting after 10 years' service without an age requirement. All others use a vesting rule of age 45 and 10 years of service. Recent amendments in Saskatchewan, to come into effect in July 1981, will require vesting where years of age and service total 45.

Minimum Benefit

Not all of the legislation provides that a plan member's pension must be equal at least to the value of his or her own contributions.

Disclosure

Manitoba requires substantially greater disclosure than other provinces. Disclosure rules vary among the other provinces.

Integration

Various methods of integrating government benefits (CPP and OAS) are permitted.

Funding

Test valuation rules differ for Ontario, Quebec and the federal jurisdiction. Other provinces do not have test valuation regulations. Only Ontario and Nova Scotia exempt post-retirement indexing from regular funding requirements.

Financial Statements

Quebec requires annual filing of certified financial statements. Federal regulations require certified financial statements and triennial filings of such audited statements. Ontario accepts a certified statement by the plan sponsor on the assets of the pension fund.

Successor Employer

Ontario, Manitoba, and Nova Scotia require that if an employer sells all or part of the business without providing for the assumption of pension obligations by the new employer, employees remain entitled to accrued benefits under the original employer's plan. Re-employment by the successor employer is not treated as termination of service under the original plan. Service with both employers is counted as continuous service for vesting and eligibility rules under the successor employer's plan. Other jurisdictions do not have these provisions.

Contributions

Employer contributions must be made quarterly under the federal regulations and within 120 days of the plan's fiscal year end for others. Employee contributions must be submitted within 60 days for Saskatchewan, Manitoba, and Nova Scotia, within 30 days of deduction for Ottawa, and within the following calendar month for Ontario. Alberta and Quebec have no time limit for remittance of employee contributions.

Priority on Termination

Only Quebec makes specific provision for priorities in the distribution of assets when a plan is terminated.

The above list is not exhaustive, but it suggests the complexity of pension administration for employers carrying on business in more than one jurisdiction, for employees moving from one province to another, and for the supervisory authorities. It also indicates a significant lack of uniformity in both policy and regulatory aspects.

The Canadian Association of Pension Supervisory Authorities (CAPSA) was formed in May 1974 composed of one designated person from each jurisdiction having pension benefits legislation. The initial signatories to the founding agreement were Ontario, Quebec, Alberta, Saskatchewan, and the federal government. Since that time, Manitoba and Nova Scotia have joined the association. The objectives as set out in the founding agreement are:

1. to assess the legislation in force and to recommend changes to legislation or regulations to improve or clarify the programs;

2. to promote uniformity of pension supervisory legislation;

3. to co-ordinate the supervisory activities of the members of the Association;

4. to provide a "group identity" when dealing with various organizations and the public in general;

5. to receive views of the public concerning supervisory legislation and its administration and, where appropriate, to seek public reaction to proposals under consideration by member jurisdictions;

6. to establish and maintain liaison with authorities and organizations in Canada and other countries to exchange ideas and information.

CAPSA serves as a useful forum for discussion of pension <u>regulatory</u> legislation with a view to working out uniformity of approach and, where possible, identical wording for the statutes and regulations. Its mandate to advise on policy issues is less clear. Its membership comprises only those whose specific concern is regulation. Disappointment with CAPSA expressed by some in the pension industry is indicative of some misunderstanding of the role of CAPSA. It is, however, the only intergovernmental agency in the area of employment pensions, and its co-ordinating function is important.

The recent amendments to the Saskatchewan Pension Benefits Act, making a significant departure from the legislation of the other six jurisdictions in the areas of vesting and rights on termination, point up the lack of consultation among the jurisdictions on policy as opposed to regulatory matters, and among persons who have input to their respective governments at the policy level. If the Government of Ontario

adopts the recommendations of this Commission affecting policy matters, it is to be hoped that such changes could be discussed at the policy level with the other jurisdictions before legislation is passed. For this purpose the Commission recommends that steps be taken to create a body along the lines of CAPSA for discussion of pension policy matters by persons having input into their respective governments at the policy level. The Commission envisages such a body as a companion to CAPSA, with the two co-operating to formulate a uniform pension policy which then may be implemented by a uniform regulatory approach.

Federal or Provincial

Discussion of uniformity raises a basic question of whether the regulation of employment pensions would be more appropriate at the federal level. Twenty years ago the Ontario Committee on Portable Pensions observed:

> "Whatever the constitutional position, it must be recognized that most large employers operate in at least several provinces. Their pension operations call either for some form of national regulation of the previous type, or for uniform provincial regulation. Provincial regulation would in turn call for some new means of enforcement owing to the absence (at present) of the provincial tax sanction outside Quebec and Ontario.
>
> "The Dominion regulation of Federally registered life companies has long recognized that the operations of a nationwide life office are in many respects indivisible. It is true that some aspects of the insurance business such as premium income and benefit payments can be subdivided by provinces, but an effort to divide all aspects of nationwide life and annuity business into as many as ten sections appears to us extremely artificial and wasteful as well as repugnant to the actuarial principles involved. It would be hard to justify either the costs of compliance or the costs of administration involved in such a division of a nationwide pension undertaking into small parts. In the case of insured plans placed with Federally registered companies, and of plans placed with the Canadian Government Annuities, local jurisdiction would no doubt be waived, but there remain the trusteed plans which are the largest group in terms of membership and assets.
>
> "The same reasons that call for national jurisdiction over commercial banking and saving banks, and over much of life insurance, also seem applicable to a large part of the pension business. The pension business combines a species of long-term savings banking with a form of insurance, and it operates in large part on an interprovincial basis.
>
> "We recognize that there are, at the same time, a host of employers that operate wholly within a single province. The business of their

pension plans resembles that of the local fire and life insurance companies and fraternal societies already under provincial jurisdiction. Such objections as there are to provincial regulations in this part of the pension field rest on other grounds, mainly the heavy cost of providing competent enforcement and inspection in the smaller provinces owing to the technical character of the business. In life insurance, four of the provinces now rely upon Federal supervision of insurers within their jurisdiction."

The Committee did not then recommend a provincially-operated earnings-related pension program because of the cost of separate administration of an inherently complicated program by one province acting alone. The Committee preferred a federal contributory program. It recommended that a Central Pension Agency be established at the federal level to facilitate the transfer of pension benefits.

A few years later, a federal contributory earnings plan, the Canada Pension Plan, (the CPP) was adopted. Ontario - and later, other jurisdictions - proceeded with legislation prescribing minimum standards for employment pension plans.

The question of appropriate jurisdiction for employment pensions was addressed again by this Commission. Administration at the federal level eliminates the problem of achieving uniformity. On the other hand it ignores the need of each jurisdiction to adopt legislation suitable for the needs of its own constituents and responsive to its own economic constraints and priorities. We may expect some adjustment of the distribution of legislative powers in the future but because constitutional negotiations involve so many complex issues, the Commission has directed its recommendations to action within the present legislative competence of the province. Notable in this regard is the recommendation of PURS as a mandatory provincial universal savings plan. The Commission is aware that this provincial initiative may give rise to problems for workers who move from province to province. However it does offer a great advantage over existing employment pension plans, in that the employee is immediately vested and the monies accrued are completely portable. It is the Commission's hope that Ontario may persuade other provinces of the merit of this plan, and that they will set up similar plans which could easily be interrelated through reciprocal agreements.

The Commission can also see the usefulness of a federal or umbrella central pension agency of the participating jurisdictions to operate a savings plan on an interprovincial basis. Such a combination of provincial retirement savings plans would lend itself readily to administrative co-ordination with the Canada Pension Plan, with consequent economies and simplification of operation. Centralization of administration would not interfere with the freedom of each province to require or permit the channeling of contributions into the private sector (as recommended for Ontario's PURS) or any other desired investment mechanism.

Uniformity is a desirable and necessary goal, but its pursuit must not become an excuse for inaction. The Commission recommends an approach of encouraging uniform legislation and regulation through joint consultation at both policy and regulatory levels. It also recognizes the need for changes which have already been delayed too long by lack of definitive leadership at the policy level. The Commission therefore recommends that the Government of Ontario proceed with changes to its pension benefits legislation without delay, but also in consultation with the other jurisdictions. Co-operation is also required at the federal level so that contributions will be tax deductible and new tax-deductible vehicles similar to locked-in RRSPs can be devised.

THE NEED FOR A SYSTEM

Although the Commission favours the continued sharing of legislative powers concerning employment pension plans we urge that a true system be developed for all pensions.

As we have seen, activities at each level of government and of many departments of government have effects on pensions and pension planning. A complex maze of rules and regulations govern retirement arrangements. Each set of rules has its own objectives and procedures.

Submissions to the Commission strongly advocate the development of a coherent system, based on consideration of retirement income provisions as a whole.

Social Planning Council of Metropolitan Toronto, Brief 189

> "One is hard pressed to find any comprehensive set of objectives for the pension system. They are not clearly stated anywhere. Rather, the pension system has evolved over the years in ways that were appropriate to the particular circumstances of the time. In part, the fragmentation of the pension system contributes to the lack of overall purpose....
>
> "As well, the conflicting social, and economic objectives of income maintenance policies, in general, leave us with an ill-defined retirement income system." (page 77)

Consumer's Association of Canada, Brief 311

> "In the absence of minimum standards governing the amount, adequacy or basis of benefits, the private pension system has developed in a haphazard fashion, and there is no consistency in so far as the degree of income security which it furnishes." (page 5)
>
> "Looking to the future, it will no longer be sufficient, if it ever was, for governments to respond in a passive or <u>ad hoc</u> fashion

to retirement income issues. If the generalized uncertainties, dissatisfactions and failures which attend current retirement income policy are not to be perpetuated or aggravated, then what is required is an aggressive stance leading to the early establishment of priorities and the development of effective means for achieving agreed-upon goals in the pension/retirement income field." (page 9)

Peat Marwick and Partners, Brief 387

"During the past few years, there has been series of government measures which have attempted to solve the pension problem once and for all, but the problem has not been solved because most of the corrective measures impact only certain aspects of the overall problems of the elderly. In the process, the total retirement income position has become even more confusing to the average Canadian.

"Fortunately, our governments have now chosen to study the pension question more closely in order to apply our limited resources more effectively and logically for the benefit of working and retired citizens. Without a clear focus or sense of direction, however, these government studies could further confuse rather than assist in finding proper solutions, especially if the conclusions of the various investigators prove to be inconsistent." (page 1)

The Commission throughout the discussion in this part of the report has drawn attention to the need to put all the pieces of retirement income provision into a system with well-identified goals. We can no longer afford overlapping and waste in our social programs. Net replacement ratio analysis, referred to in Chapters 6 and 8, is only one way to show how inefficient the present arrangements can be. Whether a workable system can be achieved by uniform provincial legislation with federal co-operation remains to be seen but it is to be hoped that all jurisdictions will seriously consider the implementation of such a system.

Since the completion of the major portion of the Commission's deliberations, Canada has seen marked unrest in the constitutional area. The Quebec referendum has spearheaded the cause of a new deal for the provinces under the federal system. The very important issue of who owns natural resources in Canada has been brought into sharp focus by both Alberta and Newfoundland, especially as it concerns oil and gas exploration. The resolution of these issues will have profound effects on retirement income even if the present design structure remains unchanged. If, for example, the provision of social programs becomes wholly a matter of provincial jurisdiction, the means of financing those programs will be crucial. Therefore decisions on the financing of the Canada Pension Plan cannot help but be coloured by any shift in the division of powers and responsibilities between the federal government and the provinces.

Throughout its recommendations the Commission has sought to provide a flexibility which would enable Ontario to accomplish reform in the pension area either through co-operation with the federal government and the other provinces or by acting independently. The principle of uniformity in provincial legislation affecting retirement income is essential for a country with a mobile work-force and with many businesses operating in two or more provinces. However, some sacrifice of uniformity may be necessary to allow Ontario to pursue a policy of economic development which in the long term, in the Commission's opinion, is the only firm foundation upon which a rationalized system of retirement income provision can be built.

The temptation to use the Canada Pension Plan as a source of capital to shore up provincial resources will become stronger. Fully funding the CPP or doubling the benefit with an accompanying increase of contribution rates would develop an abundant source of capital.

Full funding would accentuate the problem of controlling borrowing by government from the large pool of monies in the fund. Later, as the fund declines, the burden would have to be shouldered by new generations. The Commission's proposal of a mandatory scheme on an individual account, fully funded basis, will avoid these problems. It will provide a steadily increasing supply of savings and therefore capital, but not available to governments except through the regular capital markets, and subject to the discipline imposed by those markets.

In the past Ontario has supported policies which were in the best interests of Canada as well as Ontario. However, Ontario in the 1980s may find a radical change in its position as an economic leader in Canada unless it can find the savings required to allow upgrading of its industrial base to adjust to changes in the nation's economic structure. While the Commission believes that the prime concern in planning a retirement income system is not its economic consequences, it also recognizes that economic growth is essential for the security of that system.

Pensions are within the legislative competence of the provinces. Therefore any overall legislation affecting pensions is possible only by co-operation among the provinces or by relinquishing pension jurisdiction to the federal government. But change is urgently required, and it may be accomplished within the existing constitutional framework, though possibly with the sacrifice of some uniformity.

The Commission therefore recommends that:

Until constitutional arrangements require otherwise, the Government of Ontario attempt to achieve changes in pension benefit legislation in consultation with other jurisdictions having pension legislation.

The Government of Ontario embrace the principle of uniformity in pension benefit legislation among all jurisdictions in Canada and support the principle in its own legislation as far as possible.

The Government of Ontario urge those provinces not now having pension benefits legislation to adopt legislation similar to that of Ontario.

The Government of Ontario take steps to initiate an agency similar to CAPSA but with the express purpose of encouraging uniformity of pension policy, through discussion and consultation among persons who have input to government at the policy level in their respective jurisdictions.

The Government of Ontario continue to support uniformity in pension regulation through CAPSA and assist in co-ordinating the role of CAPSA with that of any pension policy body that may be created.

The Government of Ontario pursue a policy of co-operation with the federal government in matters affecting pension policy, such as tax deductibility and tax-sheltered vehicles.

The Government of Ontario adopt a mandatory retirement savings plan on a provincial basis, and encourage other provinces to adopt similar plans, with interrelation through reciprocal agreements and, if feasible, administrative co-ordination with the Canada Pension Plan.

Recommendations

The Commission has made a great many recommendations in this part of its report under the general theme of Design for Retirement. These are found throughout the text, and in some instances are drawn together at the end of a chapter. Recommendations relating specifically to the Canada Pension Plan and public sector employment pensions are to be found in other volumes. The last volume of the report, entitled Summary Report: A Plan for the Future, contains a convenient statement of all the recommendations.

Since many users may rely chiefly on the Summary Report we have included in that volume summary statements of the Commission's findings as well as its recommendations, and have organized the material by subject matter for easy reference.

It should be noted in particular that the recommendations in Volumes II and III for employment pension plans apply equally to plans that are provided for Ontario public sector employees.

Selected Facts

CONTENTS

LIST OF TABLES

INTRODUCTION

Throughout our report reference has been made to facts and figures gleaned from many sources - Statistics Canada publications, the Census, government programs at the federal and provincial levels, and projections of future population. Because much of this material lends itself to other applications, it was felt that it would be useful to present it in a separate section. Selected facts are arranged under several headings, listed below with a brief outline of contents:

Government Pension Programs

An outline of current government-sponsored pension programs - Old Age Security (OAS), Guaranteed Income Supplement (GIS), Spouse's Allowance (SA), Guaranteed Annual Income System (GAINS), and the Canada Pension Plan (CPP). Included are a brief description of the nature of each program, a historical outline, and statistics on current costs and benefits.

Population

Historical and projected population tables for Canada and Ontario; current figures show breakouts by sex, age group, marital status, urban and rural, labour force, and participation rates.

Profile of the Retired

Historical and projected population tables for Canada and Ontario for the population 65 and over and figures for sex and marital status, life expectancy, urban and rural, housing, labour force, and retirement age.

Registered Pension Plans and Other Arrangements

Ontario data for 1978 showing plans and membership by type of plan, funding vehicle, type of employer, contribution rates, benefit rates, retirement age, vesting, indexing; plan terminations in Ontario; membership and contributions to RRSPs and DPSPs.

GOVERNMENT PENSION PROGRAMS

Old Age Security (OAS)

Governing legislation: Old Age Security Act, R.S.C. 1970, c. 0-6, as amended.

Jurisdiction: Canada

Nature of program: Universal program paying a monthly benefit to persons 65 and over who meet the residence qualifications. Benefits are increased quarterly to reflect rises in the Consumer Price Index.

History:

1927 Means-tested monthly benefit of $20 payable at age 70.
1952 Means test removed. $40 payable at age 70. Subsequent increases to $65, 1957-63.
1965 Age gradually reduced to 65 (by 1970). $75 per month.
1967 Pension Index developed. Benefits increased by maximum of 2 per cent per year for inflation.
1971 Benefit $80; escalation discontinued except for OAS-GIS recipients.
1972 Ceiling removed on escalation. Benefits for all pensioners tied to full Consumer Price Index increases, annually.
1973 Benefit raised to $100 per month. Escalation changed to quarterly basis.
1977 New residence rules introduced on a phased basis.

Funding: Canada, general revenues.

Coverage, 1976:

Canada: 1,957,288 or 97.7 per cent of population 65 and over.
Ontario: 717,081 or 97.0 per cent of population 65 and over.

Take-up rate: 99.5 per cent of eligible population.

Payments outside Canada, 1977: (0.7 per cent of total) continue if recipient had 20 years' residence in Canada after age 18; in other cases payments cease after six months' absence.

Benefits:

Individual, January 1979: $167.21 per month.
Total, fiscal year ending March 31, 1978
Canada: $3.7 billion
Ontario: $1.3 billion
Share of GNP, fiscal year ending March 31, 1978
Canada: 1.7 per cent
Ontario: .6 per cent
Share of federal expenditures, fiscal year ending March 31, 1978
Canada: 8.1 per cent
Ontario: 2.9 per cent

Guaranteed Income Supplement (GIS)

Governing legislation: Old Age Security Act, R.S.C. 1970, c. 0-6, as amended.

Jurisdiction: Canada

Nature of program: An income-tested supplement paid to low-income recipients of Old Age Security. Benefits based on income and marital status; increased quarterly to reflect rises in the Consumer Price Index.

History:

1967 Monthly payment of $30 per person, indexed annually by a maximum of 2 per cent.
1971 Married rate introduced.
1972 Ceiling removed on escalation, benefits tied to full Consumer Price Index increase, annually.
1973 Escalation changed to quarterly basis.
1979 Increase of $20 per account (single or couple).

Funding: Canada, general revenues.

Coverage, 1976:

Canada: 1,087,113, or 54.3 per cent of population 65 and over.
Ontario: 338,404, or 45.8 per cent of population 65 and over.

Take-up rate:

Canada: 55.6 per cent of OAS recipients.
Ontario: 46.2 per cent of OAS recipients.

Payments outside Canada: Cease after six months' absence.

Benefits:

Individual, January 1979:
  Single: $137.28 per month maximum.
  Married: $114.15 each, per month maximum.
Total, fiscal year ending March 31, 1978
  Canada: $1.1 billion
  Ontario: $316 million
Share of GNP, fiscal year ending March 31, 1978
  Canada: .5 per cent.
  Ontario: .15 per cent.
Share of federal expenditures, fiscal year ending March 31, 1978
  Canada: 2.4 per cent
  Ontario: .7 per cent

Spouse's Allowance (SA)

Governing legislation: Old Age Security Act, R.S.C. 1970, c. 0-6, as amended.

Jurisdiction: Canada

Nature of program: Income-tested benefit equivalent to the Old Age Security and Guaranteed Income Supplement, paid upon application to spouses aged 60 to 64 of OAS recipients where the couple has insufficient income. Benefits are increased quarterly to reflect increases in the Consumer Price Index.

History:

- 1975 Spouse's Allowance first payable (effective October 1975).
- 1978 Allowance payable for six months following death of pensioner (effective November 1978).
- 1979 Allowance payable following death of pensioner until spouse attains age 65 or remarries (effective November 1979).

Funding: Canada, Consolidated Revenues.

Coverage, 1976:

Canada: 54,194 or 7.9 per cent of married population 60-64.
Ontario: 12,434 or 4.9 per cent of married population 60-64.

Payments outside Canada: Cease after six months' absence.

Benefits:

Individual, January 1979: $281.36 per month, maximum.
Total fiscal year ending March 31, 1978
 Canada: $115.0 million
 Ontario: $ 23.7 million
Share of GNP, fiscal year ending March 31, 1978
 Canada: .05 per cent.
 Ontario: .01 per cent.
Share of federal expenditure, fiscal year ending March 31, 1978
 Canada: .25 per cent
 Ontario: .05 per cent

Guaranteed Annual Income System (GAINS)

Governing legislation: The Ontario Guaranteed Annual Income Act, S.O. 1974, c. 58, as amended.

Jurisdiction: Ontario

Nature of program: Income-tested supplement to the federal pension program, for persons 65 and over who meet the residence qualifications in Ontario. The program guarantees a minimum income according to marital status.

History:

July 1974	Maximum payment \$24.49 (single) and \$33.36 (each, married).
Oct. 1974	Maximum raised to \$25.90 (single) and \$35.09 (each, married).
Jan. 1975	Maximum raised to \$26.23 (single) and \$35.65 (each, married).
May 1975	Maximum raised to \$30.01 (single) and \$39.70 (each, married).
Oct. 1975	Maximum raised to \$36.03 (single) and \$46.18 (each, married).
Jan. 1976	Maximum raised to \$38.88 (single) and \$46.18 (each, married).
July 1977	Residence rules amended to parallel those of Old Age Security. Maximum payment implemented for those with partial OAS benefits in future.

Funding: Ontario, General revenues.

Coverage, December 1978:

243,490, or 32.9 per cent of 1976 population 65 and over.

Take-up rate: Impossible to determine because of the income-tested nature.

Payments outside Ontario: Cease after six months' absence.

Benefits:

Individual, January 1979
- Single: \$38.88 each, maximum.
- Married: \$52.01 each, maximum.

Total, fiscal year ending March 31, 1978: \$108.3 million
Share of GPP, fiscal year ending March 31, 1978: .12 per cent
Share of provincial expenditures, fiscal year ending March 31, 1978: .8 per cent

Canada Pension Plan (CPP)

Governing legislation: Canada Pension Plan Act, R.S.C. 1970, c.5 as amended.

Jurisdiction: Canada.

Nature of program: Contributory earnings-related plan providing retirement benefits from age 65, as well as pensions for disabled contributors and their children and the surviving spouses and chil-

dren of deceased plan members. Benefits are increased annually to reflect rises in the Consumer Price Index.

History:

- 1965 Legislation passed.
- 1966 Contributions began.
- 1967 First retirement pensions payable.
- 1968 First survivors' benefits payable.
- 1969 First disability benefits payable.
- 1973 Pension Index ceiling removed. Benefits begin escalating for full rises in the Consumer Price Index. YMPE raised for following two years.
- 1974 YMPE began increasing at 12.5 per cent annually. YBE decreased to 10 per cent of YMPE from 12 per cent. Retirement test removed. Sex discrimination in survivor benefits removed.
- 1977 Division of credits on marriage termination provided. Child-rearing dropout provision enacted but not proclaimed.

Funding: Contributions from employees, employers, and self-employed, plus interest earned on the fund.

Coverage: As of March 31, 1977 (end of fiscal year). Retirement benefits only:

Canada(a): 553,786 or 27.7 per cent of 1976 population 65 and over.

Ontario: 281,215 or 38.1 per cent of 1976 population 65 and over.

a Less Quebec which has its own plan.

Payments outside Canada: payable anywhere.

Table 1
CPP Recipients in Ontario, June 1978

Retirement benefits	318,171
Disability pensions	38,972
Children's benefits - under 18	13,963
- 18 and over	3,135
Lump-sum death benefit	2,024
Surviving spouse pension	86,481
Orphan's benefits - under 18	38,181
- 18 and over	10,184
Combined pensions	11,247
Total	522,358

Table 2
CPP Benefits Payable Commencing in 1978(a),
Ontario

	Maximum	Ontario average(b)
	(Dollars)	
Retirement benefits	194.44	140.97
Disability pensions	194.02	162.13
Children's benefits	48.19	48.19
Lump-sum death benefit	1,040.00	825.96
Surviving spouse pension	121.11	101.26
Orphan's benefits	48.19	48.19
Combined pensions	194.44	133.71

a Amounts shown are for initial payments in 1978.
b For June 1978.

Table 3
CPP Benefit Payments, June 1978, Ontario

	(Thousands of dollars)
Retirement pensions	31,857.7
Disability pensions	7,373.7
Children's benefits - under 18	888.7
- 18 and over	213.9
Lump-sum death benefits	1,671.7
Surviving spouse pension	9,130.2
Orphan's benefits - under 18	1,940.9
- 18 and over	561.0
Combined pensions	1,502.0
Total	55,139.8

Source Canada Pension Plan, Statistical Bulletin.

Benefits as per cent of GNP (fiscal year ending March 31, 1978):
Canada - .48 per cent
Ontario - .26 per cent

Benefits as per cent of federal expenditures (fiscal year ending March 31, 1978):
Canada - 2.3 per cent
Ontario - 1.3 per cent

Source Latest available figures from Department of Finance, and Canada Pension Plan, Statistical Bulletin.

Contributions (1977-78):

Canada - $1.8 billion
Ontario - not available

Source Canada Pension Plan, <u>Statistical Bulletin</u>, Special Edition 1978, and figures provided by National Health and Welfare.

Individual Maximum Contribution (1979)

Employee: $190.80
Self-employed: $381.60

Maximum Pensionable Earnings and Basic Exemption, 1979:

YMPE: $11,700
YBE: $ 1,100

Maximum Retirement Pension, 1979:

Per month - $ 218.06
Per year - $2,616.72

<u>Quebec Pension Plan (QPP)</u>

Governing legislation: Quebec Pension Plan Act, S.Q. 1965, c.24.

Jurisdiction: Quebec.

Nature of program: Same as Canada Pension Plan.

History:

1965 Legislation passed.
1966 Contributions began.
1967 First retirement pensions payable.
1968 First survivor benefits payable.
1969 First disability benefits payable.
1972 Pension Index ceiling raised to 3 per cent; YMPE increased to $5,900 for 1973, $6,100 for 1974 and $6,300 for 1975. Flat rate component increased; pensions of orphans and children of disabled contributors fixed at $29 per month from 1974.
1973 Pension Index ceiling removed. Benefits began escalating for full rises in the Consumer Price Index. YMPE raised to $6,600 for 1974 and $7,400 in 1975 restoring parallelism with CPP.
1974 YMPE began increasing at 12.5 per cent annually. YBE decreased to 10 per cent of YMPE from 12 per cent. Sex discrimination in survivor benefits removed.
1977 Child-rearing dropout adopted. Division of credits on marriage termination adopted. Retirement test removed.

Funding: Contributions from employees, employers, and self-employed, plus interest earned on the fund.

Payments outside Quebec: Payable anywhere.

Benefits:

Table 4
QPP Recipients, 1978

Retirement benefits	198,487
Disability pensions	18,146
Children's benefits	8,740
Lump-sum death benefit	14,563
Surviving spouse pension	75,980
Orphan's benefit	42,432
Total	358,348

Table 5
QPP, Average Benefits Paid, 1978

	(Average dollars)
Retirement benefits	99.51
Disability pensions	228.25
Children's benefits	29.00(a)
Surviving spouse pension	
- under age 65	175.84
- 65 and over	78.10
Orphan's benefits	29.00(a)

a Fixed at this amount since 1974.

Table 6
QPP, Total Benefits Paid, 1978 (Calendar Year)

	(Thousands of dollars)
Retirement benefits	228,944.2
Disability pensions	58,093.3
Children's benefits	3,931.3
Lump-sum death benefits	11,802.7
Surviving spouse pensions	128,067.1
Orphan's benefits	15,820.3
Total	446,658.9

Individual maximum contribution, 1979:
Employee: $190.80
Self-employed: $381.60

Maximum pensionable earnings and basic exemption, 1979:
YMPE - $11,700
YBE - $ 1,100

Maximum retirement pension, 1979:
Per month - $ 218.06
Per year - $2,616.72

POPULATION

Table 7
Population of Canada and Ontario, 1931-2050

	Canada	Ontario	Ontario population as share of total
	(Thousands)		(Per cent)
1931	10,377	3,432	33.1
1951	14,009	4,598	32.8
1961	18,309	6,236	34.1
1971	21,568	7,703	35.7
1976	22,993	8,264	35.9
1980	24,872	9,072	36.5
1990	28,801	10,580	36.7
2000	31,596	11,727	37.1
2010	34,315	12,869	37.5
2020	36,980	13,996	37.8
2030	38,930	14,896	38.3
2040	40,621	15,723	38.7
2050	42,126	16,498	39.2

Source Statistics Canada, Census of Canada, various years; and projections prepared for the Royal Commission on the Status of Pensions in Ontario.

Table 8
Population by Sex and Age, Canada and Ontario, 1976

	Canada		Ontario	
	(Thousands)	(Per cent)	(Thousands)	(Per cent)
Total	22,993	100.0	8,264	100.0
Male	11,450	49.8	4,097	49.6
Female	11,543	50.2	4,168	50.4
Age 65 and over	2,002(8.7%)	100.0	739(8.9%)	100.0
Male 65	875	43.7	310	41.9
Female 65	1,127	56.3	429	58.1

Source Statistics Canada, Census of Canada, 1976.

Table 9
Population by Sex, Marital Status, and Age, Canada and Ontario, 1976

	Canada		Ontario	
	(Thousands)	(Per cent)	(Thousands)	(Per cent)
Male				
Married	5,474	47.8	2,019	46.4
Single(a)	5,975	52.2	2,077	53.6
Female				
Married	5,500	47.6	2,033	48.8
Single(a)	6,043	52.4	2,135	51.2
Male 65 and over				
Married	6,477	74.0	232	74.9
Single(a)	2,278	26.0	78	25.0
Female 65 and over				
Married	4,390	39.0	163	38.0
Single(a)	6,879	61.0	266	62.0

a Includes widowed and divorced.

Source Statistics Canada, Census of Canada, 1976.

Table 10
Urban and Rural Population, by Age, Canada and Ontario, 1976

	Canada		Ontario	
	(Thousands)	(Per cent)	(Thousands)	(Per cent)
Urban	17,367	75.5	6,709	81.5
Rural	5,626	24.5	1,526	18.5
Urban 65 and over	1,541	77.0	605	81.9
Rural 65 and over	461	23.0	134	18.1

Source Statistics Canada, Census of Canada, 1976.

Table 11
Labour Force by Age Group and Sex, Canada and Ontario, 1978

	Canada	Ontario
	(Thousands)	
Total		
Male	6,650	2,480
Female	4,232	1,667
15-24		
Male	1,591	576
Female	1,324	494
25-54		
Male	4,195	1,569
Female	2,514	1,012
55-64		
Male	731	282
Female	343	142
65 and over		
Male	133	53
Female	51	19

Source Statistics Canada, Labour Force Annual Averages, 1975-78.

Table 12
Labour Force Participation, by Age Group and Sex, Canada and Ontario, 1978

	Canada		Ontario	
	Number	Rate	Number	Rate
	(Thousands)	(Per cent)	(Thousands)	(Per cent)
Total				
Male	6,148	77.9	2,327	80.1
Female	3,824	47.8	1,520	51.5
15-24				
Male	1,352	69.7	499	71.6
Female	1,141	58.9	432	62.4
25-54				
Male	3,974	95.0	1,507	96.5
Female	2,310	56.6	934	61.6
55-64				
Male	691	76.5	268	80.0
Female	324	32.8	136	37.1
65 and over				
Male	131	15.2	52	17.0
Female	50	4.5	19	4.5

Source Statistics Canada, Labour Force Annual Averages, 1975-78.

Table 13
Labour Force Participation Rates, by Sex, Canada and Ontario, 1941-78

	Canada(a)		Ontario	
	Male	Female	Male	Female
1941(b)	78.4	20.7		
1951	83.8	24.1		
1961	77.7	29.5		
1971(c)	76.4	39.9	79.5	42.9
1975	78.4	44.4	80.3	48.6
1976	77.6	45.2	79.3	49.0
1977	77.6	46.0	79.4	49.8
1978	77.9	47.8	80.1	51.5

a Excludes Yukon and NWT prior to 1971 and Newfoundland prior to 1951.
b Excludes active military service.
c The data base was changed in 1966 to include persons 15 and over rather than 14 and over and therefore figures before and after are not strictly comparable.

Source Statistics Canada, Labour Force Annual Averages, 1975-78, and D. Kubat, Demographic studies prepared for the Royal Commission on the Status of Pensions in Ontario.

Table 14

Work Status of Employed Labour Force by Sex, Canada, 1978

	Male		Female		All workers	
	(Thousands)	(Per cent)	(Thousands)	(Per cent)	(Thousands)	(Per cent)
Full-time	5,805	94.4	2,959	77.4	8,764	87.9
Part-time	342	5.6	865	22.6	1,208	12.1
Total	6,148	100.0	3,824	100.0	9,972	100.0
Employees	5,457	88.8	3,478	91.0	8,935	89.6
Self-employed	437	7.1	198	5.2	635	6.4
Employers	223	3.6	37	1.0	260	2.6
Unpaid family workers	31	.5	110	2.9	141	1.4
Total	6,148	100.0	3,824	100.0	9,972	100.0

Source Statistics Canada, Labour Force Annual Averages, 1975-78.

Table 15
Work Status of Employed Labour Force by Sex, Ontario, 1978

	Male		Female		All workers	
	(Thousands)	(Per cent)	(Thousands)	(Per cent)	(Thousands)	(Per cent)
Full-time	2,818	93.7	1,161	76.4	3,342	86.9
Part-time	146	6.3	359	23.6	505	13.1
Total	2,327	100.0	1,520	100.0	3,847	100.0
Employees	2,097	90.1	1,389	91.4	3,485	90.6
Self-employed	133	5.7	80	5.3	213	5.5
Employers	89	3.8	18	1.2	107	2.8
Unpaid family workers	8	.3	33	2.2	41	1.1
Total	2,327	100.0	1,520	100.0	3,847	100.0

Source Statistics Canada, Labour Force Annual Averages, 1975-78.

Table 16
Paid Employees by Sector and Sex, Canada and Ontario, 1978

	Canada		Ontario	
	(Thousands)	(Per cent)	(Thousands)	(Per cent)
Male - total	5,457	100.0	2,097	100.0
Private	4,301	78.8	1,698	81.0
Government business	324	5.9	104	5.0
Government non-business	832	15.2	295	14.1
Female - total	3,478	100.0	1,389	100.0
Private	2,703	77.7	1,116	80.3
Government business	176	5.1	49	3.5
Government non-business	599	17.2	224	16.1

Source Statistics Canada, Labour Force Annual Averages, 1975-78.

Table 17
Union Membership by Sex, Canada and Ontario, 1975-78

	Canada	Ontario
1975		
Male	2,025,164	779,941
Female	711,102	231,722
As percentage of work-force		
Male	31.8	33.3
Female	19.2	15.7
1978		
Total	3,277,968	(N/A)
As percentage of work-force	31.3	(N/A)

Source Women's Bureau, Department of Labour, Ontario; Labour Gazette.

PROFILE OF THE RETIRED

Retired status is not identifiable in many statistical sources, and is not relevant to some of the factors to be tabulated in this section. It will be determined where possible, but otherwise the population in question will be those 65 and over. In housing statistics the sex shown refers to "household head."

Table 18
Population Aged 65 and Over, Canada and Ontario, 1931-2050

	Canada		Ontario		Ontario's share of total population 65 and over
	(Thousands)	(Per cent)	(Thousands)	(Per cent)	(Per cent)
1931	576	5.5	234	6.8	40.6
1951	1,086	7.8	401	8.7	36.9
1961	1,391	7.6	508	8.1	36.5
1971	1,744	8.1	645	8.4	37.0
1976	2,002	8.7	738	8.9	36.9
1980	2,237	9.0	820	9.0	36.7
1990	2,860	9.9	1,060	10.0	37.1
2000	3,384	10.7	1,278	10.9	37.8
2010	3,973	11.6	1,508	11.7	38.0
2020	5,358	14.5	2,012	14.4	37.5
2030	6,712	17.2	2,484	16.6	37.0
2040	6,771	16.7	2,562	16.3	37.8
2050	7,458	17.7	2,857	17.3	38.3

Source Statistics Canada, Census of Canada, various years and projections prepared for the Royal Commission on the Status of Pensions in Ontario.

Table 19
Population Aged 65 and Over, by Sex, Canada and Ontario, 1931-2050

	Canada		Ontario	
	(Thousands)	(Per cent)	(Thousands)	(Per cent)
1931				
Male	295	51.1	115	49.1
Female	282	48.9	119	50.9
1951				
Male	551	50.8	189	47.6
Female	535	49.2	207	52.4
1961				
Male	674	48.5	232	45.6
Female	717	51.5	276	54.4
1971				
Male	782	44.8	275	42.7
Female	962	55.2	370	57.3
1976				
Male	875	43.7	310	42.0
Female	1,127	56.3	429	58.0
1980				
Male	970	43.4	349	42.6
Female	1,267	56.6	471	57.4
1990				
Male	1,200	42.9	443	41.8
Female	1,600	57.1	617	58.2
2000				
Male	1,411	41.7	534	41.8
Female	1,973	58.3	744	58.2
2010				
Male	1,667	42.0	633	42.0
Female	2,306	58.0	875	58.0
2020				
Male	2,258	42.1	846	42.0
Female	3,100	57.9	1,166	58.0
2030				
Male	2,822	42.0	1,042	41.9
Female	3,890	58.0	1,442	58.1
2040				
Male	2,789	41.2	1,057	41.3
Female	3,982	58.8	1,505	58.7
2050				
Male	3,116	41.8	1,195	41.8
Female	4,342	58.2	1,662	58.2

Source Statistics Canada, Census of Canada, various years and projections prepared for the Royal Commission on the Status of Pensions in Ontario.

Table 20

Population Aged 65 and Over by Marital Status and Sex, Canada and Ontario, 1976

	Canada		Ontario	
	(Thousands)	(Per cent)	(Thousands)	(Per cent)
Male				
Married	646	73.8	232	74.9
Single	84	9.5	26	8.3
Widowed	133	15.2	48	15.6
Divorced	11	1.2	4	1.1
Female				
Married	439	38.9	163	37.9
Single	115	10.2	40	9.4
Widowed	561	49.8	221	51.4
Divorced	12	1.0	5	1.0

Source Statistics Canada, Census of Canada, 1976.

Table 21

Life Expectancy at Birth, Age 60 and Age 65, by Sex, Canada and Ontario, 1941-76

	Canada			Ontario		
	Birth	Age 60	Age 65	Birth	Age 60	Age 65
			(Years)			
1941						
Male	63.0	16.1	12.8	64.6	15.8	12.6
Female	66.3	17.6	14.1	68.4	17.6	14.0
1951						
Male	66.3	16.5	13.3	66.9	16.2	12.8
Female	70.8	18.6	15.0	71.9	18.6	14.2
1961						
Male	68.4	16.7	13.5	68.3	16.2	13.1
Female	74.2	19.9	16.1	74.4	19.7	15.9
1971						
Male	69.3	17.0	13.7	69.6	16.6	13.4
Female	76.4	21.4	17.5	76.8	21.5	17.6
1976						
Male	70.2	17.2	14.0	70.6	17.0	13.7
Female	77.5	22.0	18.0	77.7	21.9	17.9

Source Statistics Canada, Vital Statistics.

Table 22
Average Age of Death, by Sex, Canada and Ontario, 1931-75

	Canada	Ontario
	(Years)	
1931		
Male	43.1	50.1
Female	44.8	52.6
1941		
Male	51.4	57.4
Female	53.3	60.7
1951		
Male	56.3	59.7
Female	58.7	63.7
1961		
Male	59.7	61.3
Female	63.1	66.0
1971		
Male	63.3	63.9
Female	68.2	69.3
1975		
Male	63.8	64.6
Female	69.4	70.9

Source Statistics Canada, Vital Statistics.

Table 23
Urban and Rural Population Aged 65 and Over, by Sex, Canada and Ontario, 1976

	Canada		Ontario	
	(Thousands)	(Per cent)	(Thousands)	(Per cent)
Urban				
Male	636	41.2	243	40.1
Female	905	58.8	362	59.9
Rural				
Male	239	51.9	67	50.4
Female	222	48.1	66	49.6

Source Statistics Canada, Census of Canada, 1976.

Table 24
Tenure and Type of Housing of Population Aged 65 and Over, by Sex of Household Head, Canada and Ontario, 1976

	Canada		Ontario	
	(Thousands)	(Per cent)	(Thousands)	(Per cent)
Tenure				
Owned				
Male	525	69.3	190	66.9
Female	233	30.7	94	33.1
Rented				
Male	195	46.4	65	42.6
Female	226	53.6	88	57.4
Type				
Single detached				
Male	470	65.2	173	67.6
Female	203	44.2	82	45.3
Single attached				
Male	37	5.2	16	6.1
Female	27	5.9	12	6.3
Apartment				
Male	169	23.4	56	22.1
Female	200	43.7	79	43.5
Duplex				
Male	32	4.5	8	3.3
Female	25	5.4	8	4.5
Movable				
Male	12	1.7	2	0.9
Female	4	0.9	1	0.4

Source Statistics Canada, Census of Canada, 1976.

Table 25
Labour Force Aged 65 and Over, by Sex, 1978

	Canada	Ontario
Labour force		
Male	133,000	53,000
Female	51,000	19,000
Employment		
Male	131,000	52,000
Female	50,000	19,000
Full-time		
Male	101,000	(N/A)
Female	31,000	(N/A)
Part-time		
Male	31,000	(N/A)
Female	19,000	(N/A)
Participation rate (per cent)		
Male	15.2	17.0
Female	4.5	4.5

Source Statistics Canada, Labour Force Annual Averages, 1975-78.

Table 26
Sources of Income of Persons Aged 65 and Over, by Sex, Canada, 1976

	Male	Female
	(Per cent of income)	
Sources of personal income(a)		
Wages and salaries	18.1	7.5
Old age pension	17.8	27.9
Other pensions and superannuation	16.5	11.0
Bank interest	14.3	20.4
CPP/QPP benefits	6.8	4.5
Taxable amount of dividends	4.3	7.4
Bond interest	4.2	7.0

a Of persons filing income tax returns.

Source Revenue Canada, Taxation Statistics, 1976.

EMPLOYMENT PENSION PLANS AND RRSPs

Figures are for Ontario in 1978, and cover membership in the province regardless of the supervising authority. Of the 8,665 plans in question, 7,523 are under the authority of the Pension Commission of Ontario, and cover 78.6 per cent of the membership.

Table 27
Contributory and Non-contributory Pension Plans by Sector, Ontario, 1978

	Plans	Per cent	Members	Per cent
All plans	8,665	100.0	1,668,895	100.0
Public sector	119	1.4	648,014	38.8
Private sector	8,546	98.6	1,020,881	61.2
Contributory	6,321	72.9	1,065,981	63.9
Non-contributory	2,344	27.1	602,914	36.1
Contributory	6,321	100.0	1,065,981	100.0
Public sector	113	1.8	645,065	60.5
Private sector	6,208	98.2	420,916	39.5
Non-contributory	2,344	100.0	602,914	100.0
Public sector	6	.3	2,949	.5
Private sector	2,338	99.7	599,965	99.5

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 28
Compulsory and Voluntary Participation in Pension Plans, by Sex, Ontario, 1978

	Plans	Per cent	Members	Per cent
Compulsory/voluntary:				
Compulsory both sexes	4,124	47.6	1,384,508	83.0
Voluntary both sexes	4,296	49.6	254,847	15.3
Not eligible both sexes(a)	95	1.1	13,589	.8
Compulsory males, voluntary females	55	.6	13,387	.8
Compulsory females, voluntary males	4	–	116	–
Compulsory males, not eligible females	38	.4	637	–
Compulsory females, not eligible males	4	–	364	–
Voluntary males, not eligible females	47	.5	1,445	.1
Voluntary females, not eligible males	2	–	2	–
Total	8,665	100.0	1,668,895	100.0

a "Closed end" plans - new employees not eligible.

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 29
Pension Plans by Type of Benefit, Ontario, 1978

Type of benefit	Plans	Per cent	Members	Per cent
Formula based on:				
Final earnings	18	.2	3,217	.2
Final average earnings	277	3.2	43,881	2.6
Average best earnings	1,078	12.4	887,171	53.2
Career average earnings	2,641	30.5	264,314	15.8
Level percentage of earnings	13	.2	336	-
Flat benefit	832	9.6	342,750	20.5
Defined benefit (sub-total)	(4,859)	(56.1)	(1,541,669)	(92.4)
Money-purchase	3,428	39.6	95,118	5.7
Profit sharing	109	1.3	11,183	.7
Composite	173	2.0	13,242	.8
Other	96	1.1	7,683	.5
Total	8,665	100.0	1,668,895	100.0

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 30
Pension Plans by Funding Vehicle, Ontario, 1978

Funding vehicle	Plans	Per cent	Members	Per cent
Insured	6,166	71.2	273,307	16.4
Trusteed	2,302	26.6	1,099,386	65.9
Canadian government annuities	46	.5	150	-
Combination	142	1.6	62,665	3.8
Government consolidated revenue fund	6	.1	233,194	14.0
Other	3	-	193	-
Total	8,665	100.0	1,668,895	100.0

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 31
Pension Plans by Sponsoring Organization, Ontario, 1978

Type of organization	Plans	Per cent	Members	Per cent
Municipal	60	.7	188,224	11.3
Municipal enterprise	6	.1	10,615	.6
Provincial	22	.3	233,514	14.0
Provincial enterprise	4	-	20,537	1.2
Federal	9	.1	159,653	9.6
Federal enterprise	16	.2	35,367	2.1
Incorporated company	7,468	86.2	831,500	49.8
Partnership	117	1.4	1,707	.1
Sole Proprietor	68	.8	410	-
Association	379	4.4	8,954	.5
Co-operative	113	1.3	4,673	.3
Multi-employer	114	1.3	133,623	8.0
Other	289	3.3	40,118	2.4
Total	8,665	100.0	1,668,895	100.0

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 32
Contributory Pension Plans by Employee Contribution Rates, Ontario, 1978

Employee contribution rates	Plans	Per cent	Members	Per cent
Percentage rate:				
Less than 3	263	4.2	19,420	1.8
3 - 3.99	523	8.3	22,193	2.1
4 - 4.99	522	8.3	71,565	6.7
5 - 5.99	4,022	63.6	250,253	23.5
6 - 6.99	286	4.5	177,395	16.6
7 - 9.99	45	.7	483,913	45.4
10 and over	6	.1	26	-
Dollar amount	270	4.3	13,957	1.3
Other	370	5.9	24,981	2.3
Variable by sex	14	.2	2,278	.2
Total	6,321	100.0	1,065,981	100.0

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 33
Contributions to Private Sector Plans, by Type of Plan and Contributor, Ontario, 1978

Contributory plans	Employee	Employer	Total
	(Thousands of dollars)		
Defined benefit			
Final earnings(a)	184,330	424,562	608,892
Career average earnings	164,175	237,496	401,671
Level percentage of earnings	44	106	150
Flat benefit	2,015	8,259	10,274
(Sub-total)	(350,564)	(670,423)	(1,020,987)
Money-purchase	47,632	59,126	106,758
Profit sharing	3,852	4,151	8,003
Composite and other	11,062	22,257	33,319
Total	413,110	755,957	1,169,067

Non-contributory plans	Employee	Employer	Total
	(Thousands of dollars)		
Defined benefit			
Final earnings(a)	12,443	416,992	429,435
Career average earnings	8,847	95,876	104,723
Level percentage of earnings	-	324	324
Flat benefit	5,607	312,114	317,721
(Sub-total)	(26,897)	(825,306)	(852,203)
Money-purchase	1,161	15,456	16,617
Profit sharing	1,082	9,442	10,524
Composite and other	132	6,083	6,215
Total	29,272	856,287	885,559
Total contributions to private sector plans	442,382	1,612,244	2,054,626

a Includes final average earnings and average best earnings.

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 34
Contributions to Public Sector Plans, by Type of Plan and Contributor, Ontario, 1978

Contributory plans	Employee	Employer	Total
	(Thousands of dollars)		
Defined benefit			
Final earnings(a)	769,836	1,561,091	2,330,927
Career average earnings	21,424	31,951	53,375
Level percentage of earnings	-	-	-
Flat benefit	-	-	-
(Sub-total)	(791,260)	(1,593,042)	(2,384,302)
Money-purchase	384	398	782
Profit sharing	-	-	-
Composite and other	1,319	3,915	5,234
Total	792,963	1,597,355	2,390,318

Non-contributory plans	Employee	Employer	Total
	(Thousands of dollars)		
Defined benefit			
Final earnings(a)	7	377	384
Career average earnings	-	-	-
Level percentage of earnings	-	-	-
Flat benefit	682	8,761	9,443
(Sub-total)	(689)	(9,138)	(9,827)
Money-purchase	304	3,172	3,476
Profit sharing	-	-	-
Composite and other	-	-	-
Total	993	12,310	13,303
Total contributions to public sector plans	793,956	1,609,665	2,403,621

a Includes final average earnings and average best earnings.

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 35
Defined Benefit Pension Plans, by Benefit Rate and Type of Plan, Ontario, 1978

	Plans	Per cent	Members	Per cent
Final, final average, and average best earnings				
Less than 1 per cent	21	1.5	6,092	.7
1 - 1.24 per cent	106	7.7	30,521	3.3
1.25 - 1.49 per cent	88	6.4	48,984	5.2
1.5 - 1.74 per cent	319	23.3	65,366	7.0
1.75 - 1.99 per cent	105	7.7	18,962	2.0
2 per cent and over	545	39.8	699,749	74.9
Variable by sex	5	.4	592	.1
Other	182	13.3	63,876	6.8
Total	1,371	100.0	934,142	100.0
Career average earnings				
Less than 1 per cent	28	1.1	18,976	7.2
1 - 1.24 per cent	135	5.1	13,722	5.2
1.25 - 1.49 per cent	82	3.1	6,367	2.4
1.5 - 1.74 per cent	490	18.5	41,248	15.6
1.75 - 1.99 per cent	152	5.8	31,679	12.0
2 per cent and over	1,607	60.8	141,688	53.6
Variable by sex	7	.3	245	.1
Other	141	5.3	10,390	3.9
Total	2,642	100.0	264,315	100.0
Flat benefit				
Under $2.00	10	1.2	424	.1
$2.00 - 2.99	36	4.4	7,866	2.4
3.00 - 3.99	58	7.1	8,569	2.6
4.00 - 4.99	74	9.0	14,371	4.4
5.00 - 5.99	121	14.8	19,381	6.0
6.00 - 6.99	99	12.1	28,826	8.9
7.00 and over	287	35.0	212,163	65.2
Variable by sex	3	.4	1,335	.4
Other	131	16.0	32,650	10.0
Total	819	100.0	325,585	100.0

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 36
Automatic Retirement Age in Pension Plans by Sector, Ontario, 1978

	Public sector		Private sector	
	Members	Per cent	Members	Per cent
Automatic retirement age:				
60 and under	1,530	.2	1,204	.1
61-64	-	-	1,355	.1
65	151,519	23.4	265,425	26.0
66-69	2,982	.5	155,438	15.2
70	98,193	15.2	528,307	51.8
Over 70	-	-	888	.1
Other	27,033	4.2	299	-
Total with automatic retirement provision	281,257	43.4	952,916	93.3
No provision	366,757	56.6	67,965	6.7
Total	648,014	100.0	1,020,881	100.0

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 37
Early Retirement Conditions in Pension Plans by Sector, Ontario, 1978

	Public sector		Private sector	
	Members	Per cent	Members	Per cent
Employee's option	239,845	37.0	377,245	37.0
Employer's option	49,363	7.6	22,236	2.2
Mutual consent	337,015	52.0	531,916	52.1
Other	19,778	3.1	46,710	4.6
No provision	2,013	.3	42,774	4.2
Total	648,014	100.0	1,020,881	100.0

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 38
Pension Payable on Early Retirement, Ontario, 1978

	Contributory		Non-contributory	
	Members	Per cent	Members	Per cent
Formula for pension payable:				
Actuarially reduced pension	571,899	54.6	136,790	23.8
Accrued pension reduced by a certain per cent per month by which early retirement precedes normal retirement age				
0-.24%	59	-	1,024	.2
.25-.49%	144,694	13.8	74,227	12.9
.50-.74%	71,206	6.8	122,126	21.2
.75% and over	233	-	1,809	.3
(Sub-total)	(216,192)	(20.6)	(199,186)	(34.6)
Other	259,665	24.8	239,648	41.6
Total	1,047,756	100.0	575,624	100.0

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 39
Vesting Provisions in Pension Plans, Ontario, 1978

	Plans	Per cent	Members	Per cent
Immediate	1,207	13.9	166,774	10.0
10 years or less of service or participation	3,382	39.0	1,000,972	60.0
11-19 years of service or participation	1,201	13.9	100,071	6.0
20 years or more of service or participation	754	8.7	46,040	2.8
Service or participation and/or age	234	2.7	55,372	3.3
Age	23	.3	1,426	.1
Other	166	1.9	49,633	3.0
No vesting other than "45 and 10"	1,698	19.6	248,607	14.9
Total	8,665	100.0	1,668,895	100.0

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 40
Disability Benefits in Pension Plans by Sector, Ontario, 1978

	Public sector		Private sector	
	Members	Per cent	Members	Per cent
Full accrued pension	522,711	80.7	285,601	28.0
Actuarially reduced pension	83,666	12.9	127,311	12.5
Flat amount per month	1,263	.2	6,019	.6
Other	22,443	3.5	180,043	17.6
None provided	17,931	2.8	421,849	41.3
Total	648,014	100.0	1,020,823	100.0

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 41
Survivor Benefits in Pension Plans, by Sector, Ontario, 1978

	Public sector		Private sector	
	Members	Per cent	Members	Per cent
Death prior to retirement				
No death benefit	-	-	299,411	29.3
Refund of employee contributions	77,544	12.0	228,002	22.3
Refund of vested employer contributions	769	.1	70,713	6.9
Widow's pensions	561,359	86.6	309,774	30.3
Refund of employee contributions and vested employer contributions	8,342	1.3	92,458	9.1
Other	-	-	20,523	2.0
Total	648,014	100.0	1,020,881	100.0
Death after retirement				
No benefit	1,292	.2	259,374	25.4
Pension payments for balance of guaranteed term:				
Less than 60 months	-	-	3,669	.4
60	10,691	1.6	335,483	32.9
61-119	47	-	2,930	.3
120	3,225	.5	123,747	12.1
More than 120	-	-	111	-
Employee contributions less pension paid	-	-	36,282	3.6
Employee and employer contributions less pension paid	71,070	11.0	11,668	1.1
Widow's pension	540,116	83.3	212,093	20.8
Option chosen	769	.1	11,745	1.2
Other	20,804	3.2	23,779	2.3
Total	648,014	100.0	1,020,881	100.0

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 42
Benefit Escalation in Pension Plans by Sector, Ontario, 1978

	Public sector		Private sector	
	Members	Per cent	Members	Per cent
No provision	266,930	41.2	972,690	95.3
Consumer Price Index with yearly maximum of:				
2 - 2.4 per cent	348	.1	36,955	3.6
2.5 - 2.9 per cent	-	-	-	-
3 - 3.4 per cent	-	-	4,713	.5
3.5 - 3.9 per cent	-	-	-	-
4 per cent	-	-	4	-
Over 4 per cent	215,956	33.3	2,777	.3
Wage index with yearly maximum of:				
Under 2 per cent	-	-	3	-
2 - 2.4 per cent	-	-	24	-
2.5 - 2.9 per cent	-	-	45	-
3 - 3.4 per cent	-	-	-	-
3.5 - 3.9 per cent	-	-	-	-
4 per cent	-	-	-	-
Over 4 per cent	-	-	-	-
Other	164,780	25.4	3,670	.4
Total	648,014	100.0	1,020,881	100.0

Source Statistics Canada, "Pension Plans in Ontario, 1978," unpublished.

Table 43
Pension Plan Terminations in Ontario, 1965 to 1972, by Reason for Termination(a)

Reason for termination	Plans	Members
Required to join common municipal plan (OMERS)	341	13,843
Introduction of Canada Pension Plan	196	4,536
Objection to supervisory legislation	36	283
Company merger	774	67,941
Employer went out of business	148	3,051
Employer bankrupt or in receivership	38	1,067
Replaced by new plan	315	3,443
Result of unfavourable tax ruling	637	1,488
Other or no reason given	1,021	15,123
Total	3,506	110,775

a Unofficial tabulation of plan terminations, with membership affected where known. Additional preliminary tabulations show a total of 469 plan terminations in 1973, affecting 8,048 members; and from January 1, 1974 to March 31, 1975, 784 terminations affecting 20,000 members.

Source Pension Commission of Ontario.

Table 44
Registered Retirement Savings Plans, Contributors and Contributions, Ontario, 1970-76

	Contributors (Number)	Contributions ($ million)
1970	248,719	225.2
1971	347,674	319.8
1972	545,416	645.1
1973	757,916	922.6
1974	936,385	1,243.7
1975	1,078,155	1,524.5
1976	1,225,034	2,115.1

Source H. Weitz, study prepared for the Royal Commission on the Status of Pensions in Ontario.

Table 45

Contributions by "Dual Contributors" to Employment Pension Plans and RRSPs, by Income, Canada, 1976

Income	Dual contributors	Average contribution to employment plans	Average contribution to RRSPs	Average contribution to both
	(Number)	(Dollars)	(Dollars)	(Dollars)
Under 2,000	43	74	216	290
2,000 - 2,999	125	166	280	446
3,000 - 3,999	147	88	455	543
4,000 - 4,999	1,034	117	422	539
5,000 - 5,999	1,129	206	356	561
6,000 - 6,999	2,342	204	503	707
7,000 - 7,999	4,710	250	619	869
8,000 - 8,999	11,511	261	671	932
9,000 - 9,999	14,288	327	654	981
10,000 - 14,999	115,231	504	913	1,417
15,000 - 19,999	150,236	758	1,184	1,942
20,000 - 24,999	97,569	944	1,442	2,386
25,000 and over	121,883	1,358	1,733	3,092
Total	520,248	844	1,263	2,108

Source Statistics Canada, Pension Plans in Canada, 1978.

Table 46
Contributions to RRSP Funds in Canada, 1958-1977

	Annual contributions	Annual increase
	(Thousands of dollars)	(Per cent)
1958	19,004	-
1959	20,000(a)	5
1960	27,526	-
1961	34,322	25
1962	40,456	18
1963	46,456	15
1964	57,704	24
1965	81,997	42
1966	100,618	23
1967	118,864	18
1958-1967	546,947	
1968	142,618	20
1969	178,600	25
1970	225,200	26
1971	319,800	42
1972	645,100	100
1973	922,600	43
1974	1,243,700	35
1975	1,524,500	23
1976	2,115,500	39
1977	2,355,000(b)	11
1968-1977	9,672,618	
1958-1977	10,291,565	

a Estimate

b Preliminary figure provided by Revenue Canada, Taxation.

Source Revenue Canada, Taxation, Taxation Statistics, Annual reports for Taxation Years 1958-1976.

Table 47
Deferred Profit Sharing Plans Established, Canada, 1970-78

	Annual total	Cumulative total
1970	-	948
1971	97	1,045
1972	982	2,027
1973	2,766	4,793
1974	3,780	8,573
1975	3,697	12,270
1976	3,166	15,436
1977	3,225	18,661
1978	2,918	21,579

Source Revenue Canada.

Glossary

Pension plan language displays a great variety in terms and usage from one occupation or firm to another, and often among different professionals. Government pension programs have introduced their own specialized terminology, including new or special meanings for old terms. In public discussion it often happens therefore that two different terms are used interchangeably; or an expression, though technically correct, is applied in a manner sufficiently unusual to confuse many readers - even, on occasion, the well-informed. In the preparation of its report the Commission has made every effort to define and explain all terms used as and when they occur in the text. It was thought useful, however, to include this Glossary, covering as many as possible of the specialized words and phrases occurring in the report itself and likely to be encountered in subsequent discussion of pension issues at various levels. The only items intentionally omitted are those not in general use today, or for which an adequate definition is possible only in the context of a full discussion, as is the case with some actuarial and legislative expressions.

ACCRUED PENSION - Amount of pension credited to a plan member according to service, earnings, etc., up to a given time.

ACTUARIAL ASSUMPTIONS - In an <u>actuarial valuation</u>, a set of estimates of future developments affecting the cost of benefits to be provided under a pension plan (e.g., mortality, salary increases, investment return, employee turnover, retirement ages).

ACTUARIAL EQUIVALENT - Result of a calculation used to reduce or increase the amount of monthly pension payments when taken in a form other than the <u>normal form of benefit</u> - at a different age, or with different survivor conditions, etc. - but representing the same total value over the entire term of the expected payments. For example, a

life pension commencing at age 60 may be a lower monthly amount than one starting at age 65 because a greater number of monthly payments are expected; it is said to be the actuarial equivalent of the age 65 pension when the present value is the same.

ACTUARIAL VALUATION - Examination of a pension plan by an actuary to assess the solvency of the plan and determine the level of contributions required to maintain its solvency.

ACTUARY - A professionally trained specialist in the pension and insurance fields. In Canada, full professional recognition requires membership in the Canadian Institute of Actuaries.

ADDITIONAL VOLUNTARY CONTRIBUTIONS - Contributions to a pension plan, made voluntarily by an employee in addition to those required for specific plan benefits. Extra benefits are purchased by the additional contributions but no additional cost is borne by the employer.

ADEQUACY - A social judgment applied to determine the amount of income to be provided through government programs to the elderly - in this report, persons aged 65 and over. As used in Volume I, Chapter 6, adequacy level is defined as the amount required for adequacy in 1979 for persons who retired at the end of 1978; and adequacy standard is a formula for determining the adequacy level in subsequent years.

AD HOC ADJUSTMENT - Amount added to a pension after retirement, on an irregular basis and not as a result of a prior commitment or contract. To be distinguished from indexing.

AGE DISTRIBUTION - Analysis of the age of a group according to number of members in each age class: e.g., 20-24, 25-29, etc.

AGE PENSION - Term used to distinguish pensions payable on account of a person's age from those payable in event of disability, etc.

AMORTIZATION PERIOD - Period of years over which payments are made into a pension plan to meet the cost of benefits that have not been fully funded. (See Unfunded liability.)

ANNUITY - In pension terminology, periodic payments (usually monthly) provided by the terms of a contract for the lifetime of an individual

(the annuitant); may be a fixed or varying amount, and may continue for a period after the annuitant's death. See Guaranteed annuity; Joint and survivor annuity; Straight life annuity; Level income option; Participating annuity; Variable annuity; Normal form of benefit; Optional form of benefit.

ANNUITY RATE - Price charged by an issuer of annuities to provide a dollar of annuity (usually per month) under specified conditions to an individual based on the person's age, interest rates, etc.

AVAILABLE INCOME - Total dollar value of money income and other benefits received by an individual, including such items as income tax credits and free health plan premiums. (Term used in discussion of Adequacy, Volume I, Chapter 6).

AVERAGE INDUSTRIAL WAGE - The Industrial Composite of Wages and Salaries (weekly) as measured by Statistics Canada and reported in Employment, Earnings and Hours (Cat. 72-002). Usually cited as an annual average.

BENEFICIARY - In a pension plan, a person who, on the death of a plan member or pensioner, may become entitled to a benefit under the plan. (See Survivor benefits, Death benefits.)

BENEFIT - Generally, any form of payment to which a person may become entitled under the terms of a plan; often refers specifically to the normal pension provided by the plan formula.

BENEFIT FORMULA - Provision in a pension plan for calculating a member's defined benefit according to years of service, earnings (career or final average), a fixed dollar amount, etc. (See: Flat benefit; Career average benefit; Final average benefit; see also: Defined contribution plan.)

BEST EARNINGS FORMULA - A defined benefit formula which applies the unit of benefit credited for each year of service to the member's average earnings for a specified period of highest earnings (e.g., best five of the last ten years of service). See also: Final average formula; final earnings formula.

BRIDGING SUPPLEMENT - A supplemental benefit payable in addition to regular benefits under a pension plan to an employee who retires

before becoming eligible for government benefits, but ceasing when OAS or CPP/QPP benefits are payable (or offset by those benefits).

CAREER AVERAGE FORMULA - A defined benefit formula which applies the unit of benefit to earnings of the member in each year of service, and not to final or final average earnings.

CARRIER - General term used to refer to an insurance company, trust company or other financial institution with responsibility for some or all functions under a pension plan.

CASH WITHDRAWAL - A return of personal pension contributions to a member whose employment is terminated.

CHILD-REARING DROPOUT - Provision in Quebec Pension Plan (and Canada Pension Plan, subject to approval of provinces) under which allowance is made for months in which no (or low) contributions were made while the contributor was raising children.

COFIRENTES + - Pension review committee established by the government of Quebec; report released March 14, 1978. (Comité d'étude sur le financement du Régime de rentes du Québec et sur les régimes supplémentaires de rentes.)

COMMUTED VALUE - Amount of an immediate lump-sum payment estimated to be equal in value to a future series of payments. See also: Present value.

COMPOUND INTEREST - Interest credited to the investor at a specified rate and on specified dates, and added to the principal for the purpose of subsequent interest calculations.

COMPULSORY PLAN - A pension plan which eligible employees must join as a condition of employment.

COMPULSORY RETIREMENT - Provision in a pension plan, collective agreement or employer's rules requiring that employee must retire at a certain age or under other specified conditions.

CONTINUOUS SERVICE - Period during which an employee is continuously employed by the same employer; may be defined in a pension plan (or by law) so as to include certain periods of absence, and service with an associated or predecessor employer. To be distinguished from Credited service.

CONTRIBUTION INTEGRATION - Provision for reducing the required contributions to a pension plan by contributions prescribed in the Canada Pension Plan (or QPP). To be distinguished from treatment of contributions in Step-rate integration.

CONTRIBUTORY PLAN - A pension plan which requires the employee to make contributions by payroll deduction in order to qualify for benefits under the plan.

COST CERTIFICATE - The certificate of an actuary, based on an actuarial valuation, setting out costs and contributions required under an employment pension plan. Under pension benefits legislation a cost certificate must be filed when a plan is established and at least every three years thereafter, and when the plan is amended.

CREDITED SERVICE - Periods of employment counted in calculating amount of pension; may also be a basis for qualifying for a particular type of benefit. See also: Continuous service.

CREDIT SPLITTING - See Division of pension credits (CPP).

CURRENT SERVICE - Period of service of an employee after becoming a member of a pension plan. Current service cost usually refers to the cost of benefits credited to members of a plan in a given year. See also: Past service; Unfunded liability.

DEATH BENEFIT - A lump sum (usually), payable from a pension plan to the beneficiary or estate of a member who dies before retirement. May refer to a payment on death after retirement. See also: Survivor benefit; Guaranteed annuity; Joint and survivor annuity.

DEFERRED PROFIT SHARING PLAN (DPSP) - Type of profit sharing plan defined in the Income Tax Act, often used as a defined contribution pension plan. Employee contributions are not deductible from income for tax purposes. See also: Profit sharing pension plan; Employees profit sharing plan.

DEFERRED RETIREMENT - See Postponed Retirement.

DEFERRED VESTED PENSION (ANNUITY) - A specified pension determined at the time of termination of employment or termination of a plan but not payable until some later date, usually normal retirement age. (See Vesting.)

DEFINED BENEFIT PLAN - A plan which defines the pension to be provided (based on service, average earnings, etc.) but not the total contributions. If plan is contributory, the rate of employee contributions may be specified, with the employer paying the balance of cost. To be distinguished from defined contribution plan.

DEFINED CONTRIBUTION (MONEY-PURCHASE) PLAN - Plan which defines contributions to be made by employer and employees, but not the benefit formula. Accumulated contributions and interest are used to purchase an annuity for the member. To be distinguished from Defined benefit plan.

DEMOGRAPHIC PROJECTION - An estimate of the future size and composition of the population, based on past and current census data and assumptions as to birth and death rates, immigration, etc.

DEPENDENCY RATIO - A demographic expression of the economic relationship of the population outside the labour force to those in the labour force in a given year. Term may refer to all who are inactive (in the economic sense) or just those considered to have retired.

DEPENDENT CHILD'S BENEFIT - Under the Canada Pension Plan (or QPP), a monthly amount payable to each dependent child of a disability pensioner or deceased contributor.

DEPOSIT ADMINISTRATION - A contract with an insurance company to administer a pension plan, but with the employer responsible for solvency until funds are used to purchase annuities, usually at the time of retirement. (See also: Insured plan.)

DISABILITY PENSION - Pension payable to an employee permanently incapacitated due to physical or mental disability.

DISCOUNTED COST - Present value of benefits payable in the future, taking into account estimates of future investment yield and the probability that plan members will live and remain in the plan long enough to qualify for payment of benefits.

DISPOSABLE INCOME - Generally, a person's income from all sources, minus income taxes.

DIVISION OF PENSION CREDITS - Also known as "credit splitting," a provision in the Canada Pension Plan (and QPP) whereby one spouse, on dissolution of marriage, may obtain an equal division of pension credits earned by one or both partners during the period of marriage.

DROP-OUT MONTHS - Under the Canada Pension Plan, certain low-earnings months which are not counted in calculating average contributory earnings on which the contributor's pension is based.

DUES-PAID PLAN - Pensions provided for members of a trade union, financed entirely by regular dues payments, without participation by employers.

EARLY RETIREMENT - Provision in a pension plan for retirement earlier than the normal pension age. The amount of pension credited under the plan formula may be reduced according to the member's attained age; or an unreduced pension may be payable if a specified service condition (e.g., 30 years) has been met. (See also: Special retirement.)

EARNINGS - A person's money income from employment or self-employment; usually excludes such forms of income as rents or bond interest. In some pension plans certain bonuses, sick pay, etc., may be excluded in calculating benefits.

EARNINGS CEILING - See Year's Maximum Pensionable Earnings.

EARNINGS-RELATED PLAN - Any plan with a benefit formula based on earnings (as opposed to a Flat benefit plan). Includes Career average and Final average plans.

EARNINGS TEST - A form of retirement test in which eligibility for a specified pension or supplement is determined on the basis of a person's earnings during a certain period.

ELIGIBILITY REQUIREMENT - A condition such as age or length of service that must be met before an employee is permitted or required to join a pension plan. (Term may refer to eligibility for certain benefits.)

EMPLOYEE-PAY-ALL PLAN - Any pension or retirement savings plan that is organized for or by a group of employees but is not financed by an employer. See also: Dues-paid plan.

EMPLOYEES PROFIT SHARING PLAN (EPSP) - A plan, defined in the Income Tax Act, under which employer contributions must be declared as income by the employee, and employee contributions are not deductible. Benefit payments out of the fund are generally tax-free. See also: Deferred profit sharing plan; Profit sharing pension plan.

EMPLOYMENT PENSION PLAN - A pension plan offered by an employer or supported by a group of employers for the benefit of employees. As used in this report, the term includes plans covering employees of governments and public agencies but does not include the Canada Pension Plan or other public programs.

ENTRY AGE NORMAL - A costing method used in arriving at a level premium cost for a group. It bases costs on the average career of employees from an assumed average age of entry into the the plan to normal retirement age. (See: Level premium, Single premium.)

EXCESS EARNINGS - In discussion of inflation, earnings from investments of a pension fund in excess of an assumed or expected rate of return.

EXPERIENCE DEFICIENCY - An unfunded liability, revealed by an actuarial review of a pension plan, resulting from a difference between actual experience (investment earnings, salary levels, etc.) and assumptions made at the time of a previous valuation.

FINAL AVERAGE (EARNINGS) FORMULA - A defined benefit formula which applies the unit of benefit credited for each year of service to the member's average earnings for a specified number of years just before retirement. See also: Final earnings formula; Best earnings formula.

FINAL EARNINGS FORMULA - A defined benefit formula which applies the unit of benefit credited for each year of service to the member's final salary rate or annual earnings immediately before retirement. See also: Final average formula; Best earnings formula.

FINAL PAY PLAN - Term commonly used for any pension plan whose benefits are based on earnings in a member's last years of service. See: Final average formula; Final earnings formula; Best earnings formula.

FLAT BENEFIT FORMULA - A defined benefit formula which specifies a dollar amount of pension to be credited for each year of service. Term should be distinguished from Flat rate pension.

FLAT RATE PENSION - A defined benefit expressed as a dollar amount of monthly pension, not related to service or earnings, but paid on retirement after meeting certain qualifying conditions. See for example, Old Age Security.

FULLY FUNDED - Term describing a plan which, at a given time, has sufficient assets to provide for all pensions and other benefits in respect of service up to that date.

FUNDED RATIO - Ratio of the assets of a pension plan to its liabilities.

FUNDING - Systematic payments into a fund which, with investment earnings, are expected to provide for all pensions and other benefits as they become payable. See: Fully funded; Provisionally funded; Terminal funding.

FUTURE SERVICE BENEFIT - Term used to refer to a current service benefit formula that differs from that for past service. See also: Current service; past service.

GAINS - See Guaranteed Annual Income System.

GOING CONCERN BASIS - Refers to the assumption, when making an actuarial valuation, that the pension plan will continue in operation indefinitely.

GOVERNMENT PROGRAM - Any legislative program under which benefits (pensions, income supplements, etc.) are provided by a government in its role as government rather than its role as an employer; e.g., Old Age Security, Canada Pension Plan, Guaranteed Income Supplement.

GROUP ANNUITY - A contract under which an insurance company agrees to provide retirement pensions to members of a group.

GUARANTEED ANNUAL INCOME SYSTEM (GAINS) - An Ontario government program providing monthly income supplements to certain needy residents, based on a guaranteed amount of annual total income. "GAINS-A" benefits apply to those aged 65 and over; "GAINS-D" benefits are for the blind and disabled.

GUARANTEED ANNUITY - An annuity which will be paid for the lifetime of a person, but in any event for a minimum period; e.g., if annuity is guaranteed for five years and the annuitant dies after three years, payments will be continued to a beneficiary or the estate for two years. See also: Survivor benefit.

GUARANTEED INCOME SUPPLEMENT (GIS) - A monthly payment under the federal Old Age Security Act to needy recipients of the OAS pension, based on a guaranteed minimum income amount. See: Old Age Security; Guaranteed Annual Income System (GAINS); Spouse's Allowance.

INCOME (PERSONAL) - Generally, all monies received by or credited to a person; may be defined to include receipt of certain goods or services, as well as non-earned income (interest, rents, etc.). For purposes of income tax and government support programs some forms of income may be excluded; or certain deductions may be allowed in computing net income.

INCOME SUPPLEMENT - A regular payment made to a person, usually on the basis of need or other special circumstances, in addition to other income such as earnings or pensions. See: Guaranteed Income Supplement; Guaranteed Annual Income System (GAINS); Spouse's Allowance.

INCOME TEST - Method by which the income of a person or family is taken into account in determining eligibility for (or amount of) a payment under a government program. See: Guaranteed Income Supplement; Guaranteed Annual Income System (GAINS); Spouse's Allowance.

INDEXING - Provision for periodically adjusting a benefit amount (usually after retirement) according to a formula based on a recognized index of price or wage levels, e.g, the Consumer Price Index. To be distinguished from Ad hoc adjustment.

INDIVIDUAL ANNUITY - Annuity purchased for an individual and held in trust by the employer until the person's retirement. Plan may be referred to as a pension trust.

INFLATION TAX CREDIT - A system of tax credits recommended in Volume II, Chapter 10, to offset a portion of inflation cost for retired persons.

INITIAL UNFUNDED LIABILITY - See Unfunded liability.

INSURED PENSION PLAN - A plan in which all benefits are purchased from and guaranteed by an insurance company as contributions are received.

INTEGRATION - Provision in a pension plan which relates plan contributions and/or benefits to those of a government pension program, e.g., Canada Pension Plan. Not to be confused with Level income option. See also: Contribution integration; Step-rate integration; Offset integration; Bridging supplement.

INVESTMENT RETURN (YIELD) - Earnings of a pension fund including interest on fixed income securities (bonds, mortgages, etc.) dividends, capital gains, etc.

JOINT ADMINISTRATION - Provision for a union-management committee or board to assume supervisory functions relating to a pension plan. May include provisions for final and binding settlement of disputes.

JOINT AND SURVIVOR ANNUITY - An annuity payable until the death of the retired employee, and continuing thereafter to the surviving widow or widower until that person's death. Commonly provided as an option at the time of retirement; may be available as a level amount or with reduction when one annuitant dies. See also: Survivor benefit.

LEVEL INCOME OPTION - Also referred to as a "notched" option: provision for employee, at time of retirement, to elect an increased pension, subject to a reduction by a specified amount when the retiree becomes eligible for pension under a government program. To be distinguished from integration.

LEVEL PREMIUM FUNDING - Funding method in which equal annual payments, per employee or a percentage of payroll, are contributed to a pension fund over the estimated working life of employees in a pension plan to

fund all benefits under the plan. To be distinguished from single premium funding.

LIFE EXPECTANCY - Number of years a person of given sex and age is expected to live, based on statistics of mortality. See: Mortality table.

LOADING - An amount added to the estimated cost of a pension plan to provide for expenses of a variable or minor nature; e.g., special retirement pensions, trustee fees.

LOCKING-IN - Requirement under legislation that pension contributions made after a certain date cannot be withdrawn or otherwise forfeited if the employee on termination of employment has attained a certain age or has completed a certain period of service or plan membership. See Vesting.

MANDATORY PENSION PLAN - An employment pension plan which employers are required by law to establish and maintain for their employees. See also: Provincial Universal Retirement System (PURS).

MANDATORY RETIREMENT - See Compulsory retirement.

MAXIMUM PENSIONABLE EARNINGS - See Year's Maximum Pensionable Earnings (YMPE).

MEANS TEST - Method by which a person's assets as well as income are taken into account in determining eligibility for or amount of payment under a government program. See Old Age Pensions.

MINIMUM WAGE - Lowest rate of pay an employer may pay to an employee according to applicable minimum wage legislation (provincial or federal).

MONEY-PURCHASE PLAN - See Defined contribution plan.

MORBIDITY RATES - Statistics showing the incidence of specific physical and mental ailments in large groups, by age, sex, occupation, etc.

MORTALITY TABLE - A table showing expected rates of death at various ages for people born in various periods. Used by actuaries to arrive at mortality assumptions when estimating the cost of pensions for a group. Term unisex is used when mortality estimates for males and females are combined in a single table.

MULTI-EMPLOYER PLAN - A pension plan covering employees of more than one employer, usually by agreement with a union or group of unions.

NEEDS TEST - Method of assessing a person's or family's expenditure requirements (shelter, food, fuel, etc.) in relation to other income or means, to determine amount of income support to be provided under a government program (e.g., in most provincial family benefit programs). See also: Income test; Means test.

NET REPLACEMENT RATIO - Measurement of adequacy of retirement income by relating it to income immediately before retirement, taking into account income taxes, tax credits, etc.

NON-CONTRIBUTORY PLAN - A pension plan in which all required contributions are made by the employer.

NON-PENSION BENEFIT - Any benefit or privilege provided by governments or private organizations to retired persons; e.g., employer-paid life insurance; free prescription drugs; reduced fares for transportation; subsidized housing.

NORMAL COST - Amount of annual contribution required to pay for the current service cost of a pension plan. Term usually refers to a level premium, based on a "normal" age assumption (e.g., entry age normal).

NORMAL FORM OF BENEFIT - Amount and other features of the annuity (pension) payable on retirement unless the plan member elects an optional form of benefit.

NORMAL PENSION - Amount of pension, according to the benefit formula, to which an employee is or would be entitled on reaching normal retirement age, based on earnings and/or service. See also: Benefit formula; Early retirement.

NORMAL RETIREMENT AGE - The age specified in a pension plan at which employees are expected to retire; may be the earliest age at which an unreduced pension is payable. See also: Early retirement; Normal pension.

OFFSET - Generally, the amount of one type of benefit used to reduce the amount of another benefit payable to a person, e.g., a disability pension where disability insurance benefits are provided by the same employer. For reference to government pension programs, see Offset integration.

OFFSET INTEGRATION - Provision in a pension plan for directly reducing a plan benefit by all or a portion of pensions payable to the individual from a government program. See also: Step-rate integration; Contribution integration.

OLD AGE PENSIONS - Usually refers to pensions formerly paid under a federal statute to aged residents who could qualify under a means test. (Program replaced in 1952 by the Old Age Security Act).

OLD AGE SECURITY (OAS) - Federal program providing a universal, flat rate pension to all residents aged 65 and over, regardless of need; also provides income-tested supplements: see Guaranteed Income Supplement, Spouse's Allowance.

OPTIONAL FORM OF BENEFIT - Form of annuity which a plan member may elect on retirement, differing from the normal form of benefit in amount and other conditions but of actuarially equivalent value. See also: Guaranteed annuity; Joint and survivor annuity; Straight life annuity; Level income option; Participating annuity; Variable annuity.

PARTICIPATING ANNUITY - A form of annuity in which the contractual amount of regular payments may be increased to reflect investment returns that are higher than originally assumed. (To be distinguished from Variable annuity.)

PAST SERVICE - Period of service of an employee before becoming a member of a pension plan. Term may be used to define certain benefits that differ from those for current service (future service). See also: Current service; Future service; Unfunded liability.

PAY-AS-YOU-GO PLAN - Term used for benefits that are not funded except as and when they are paid to individuals; i.e., payment is made from current revenue or other sources outside the plan as such.

PENSION - Generally, any regular periodic payment to a person who has retired from the service of an employer or has met certain age or other conditions for payments under a government pension program. See also: Annuity.

PENSION FORMULA - See Benefit formula.

PENSIONABLE EARNINGS - Defined portion of an individual's total earnings, used in calculating pension entitlement (e.g., excluding certain bonuses). See also: Year's Maximum Pensionable Earnings (YMPE) - term used in Canada Pension Plan.

PENSION BENEFITS LEGISLATION - Laws and regulations under which employment pension plans must be registered and meet prescribed standards relating to vesting, solvency, investments, etc. In Ontario, the Pension Benefits Act.

PENSION BOARD (COMMITTEE) - Group of persons designated according to the terms of a pension plan to oversee various administrative functions. Members may be trustees of the plan.

PENSION COMMISSION OF ONTARIO - Commission responsible for administering the Pension Benefits Act.

PENSION PLAN - A plan organized and administered to provide a regular income for the lifetime of retired members; other benefits that may be provided include payments on permanent disability, death, etc. See also: Annuity.

PENSION TRUST - See Individual annuity.

PLAN TERMINATION - Discontinuance of an employment pension plan, voluntary or involuntary (e.g., as in bankruptcy); wind-up procedure regulated by pension benefits legislation. See also: Priorities.

POOLED FUND - Funds of two or more pension plans, held by a financial institution and combined for investment purposes in a single fund, each plan sharing rateably in the net income from investments.

POOLING - In pension plans, term used to describe any method by which certain risks or costs are shared by all members of a group, and certain group advantages are gained. (Term may also refer to a method of fund investment; see: Pooled fund).

PORTABILITY - Extent to which an individual is provided on retirement with pension income which recognizes all periods of employment with various employers. See also: Vesting.

POSTPONED (LATE) RETIREMENT - Retirement of a member later than the time prescribed for normal retirement.

PRESENT VALUE - Amount of money which, if invested today at a given rate of compound interest would provide a defined benefit commencing at a specified future date.

PRIORITIES (PLAN TERMINATION) - A set of rules, in an employment pension plan or legislation, under which the assets of a plan that is discontinued are allocated among members and beneficiaries to provide as far as possible for all accrued benefits.

PRIVATE PENSION PLAN - See Employment pension plan.

PRIVATE SECTOR PLAN - An employment pension plan offered by an employer or by employers and unions (multi-employer plan) in the private sector.

PROFIT SHARING PENSION PLAN (PSPP) - Type of plan defined in the Income Tax Act: money-purchase, with employer's contribution expressed as a share of profits but subject to a minimum annual amount equal to 1 per cent of member's earnings. See also: Defined contribution plan; Deferred profit sharing plan; Employees profit sharing plan.

PROVINCIAL UNIVERSAL RETIREMENT SYSTEM (PURS) - Mandatory pension plan to be provided by all employers, as recommended in this report (Volume II, Chapter 12).

PROVISIONALLY FUNDED - In pension benefits legislation, term used to describe a pension plan that is not fully funded but is "solvent" - i.e., current service costs are being met year by year, and special payments are being made to amortize all unfunded liabilities.

PUBLIC PENSION PROGRAM (PLAN) - Also referred to as "government program." A legislative program providing pension benefits from the government in its role as a government rather than its role as an employer; e.g., Old Age Security, Canada Pension Plan. To be distinguished from Public sector plan.

PUBLIC SECTOR PLAN - An employment pension plan offered by an employer in the public sector, covering civil servants, teachers, municipal employees, etc. (As used in Volumes VI and VII, term refers to such plans in Ontario only). Not to be confused with Public pension program.

REGISTERED PENSION PLAN - An employment pension plan accepted for registration for tax purposes under the Income Tax Act, and/or for registration under applicable pension benefits legislation.

REGISTERED RETIREMENT INCOME FUND (RRIF) - Form of investment vehicle permitted under the Income Tax Act for funds an individual has accumulated in a Registered Retirement Savings Plan that has "matured."

REGISTERED RETIREMENT SAVINGS PLAN (RRSP) - A personal retirement savings plan, defined in the Income Tax Act, under which tax is deferred on contributions and investment income until received as annuity payments.

REMARRIAGE CLAUSE - Provision for a surviving spouse's pension to be discontinued if he or she remarries; may include provision for renewal of payments if that marriage is later terminated.

REPLACEMENT INCOME - Regular payments (e.g., a pension) from a program whose purpose is to replace income which the individual previously obtained from employment. See: Net replacement ratio.

RETIRED LIVES FUND - In a trusteed pension plan, a segregated group of assets representing the value of all benefits for those who have retired under the plan; excess earnings of these assets may be avail-

able to increase the amounts of monthly pension payable. See also: Participating annuity.

RETIREMENT - Withdrawal from the active work-force because of age; may also be used in the sense of permanent withdrawal from the labour force for any reason, including disability.

RETIREMENT INCOME - Income from pensions and other sources, to which a retired person is entitled. Term may include both private and public pension payments, income from personal savings, government income supplements, and imputed income (e.g., free health insurance premiums).

RETIREMENT TEST - Under a government program or employment pension plan, a method of determining that a person has actually left the labour force and so qualifies for a specified pension or supplement.

RETURN OF CONTRIBUTIONS - See Cash withdrawal.

SALARY SCALE - In pension costing, an estimate of future increases in wages and salaries of plan members whose benefits are based on earnings.

SEGREGATED FUND - Assets of a pension plan held by an insurance company for investment management only; funds are segregated from assets of the insurance company, and principal and interest are not guaranteed. To be distinguished from Insured pension plan and Deposit administration. See also: Trusteed pension plan.

SELF-ADMINISTERED PLAN - See Trusteed pension plan.

SINGLE PREMIUM FUNDING - Funding method in which current service cost is the present value of benefits provided under the plan for service during the current year. To be distinguished from Level premium funding. See also: Current service cost.

SOCIAL SECURITY - Term used to refer to a system of government programs providing for income security of individuals, especially the aged, disabled, etc. In Canada, the term as applied to the elderly usually includes Old Age Security, income supplements (federal and provin-

cial), the Canada and Quebec Pension Plans; may include other income support programs.

SOLVENCY - In a pension plan, the ability of the plan to meet its present and future obligations; the adequacy of provisions for funding.

SPECIAL RETIREMENT - Term used in some pension plans for conditions under which an employee may retire, usually with a normal pension, in certain exceptional circumstances, e.g., job redundancy. Term may be used in the broader sense of any provision for retirement on a normal (unreduced) pension earlier than normal retirement age.

SPLIT FUNDING - Practice whereby a non-insured pension plan purchases an annuity (i.e., an insured benefit) for each member at the time of retirement, instead of making monthly payments directly from the pension fund.

SPOUSE'S ALLOWANCE - Under the Old Age Security Act, a monthly payment, based on family income, payable to the spouse aged 60 to 65 of an OAS pensioner. See also: Old Age Security; Guaranteed Income Supplement; Guaranteed Annual Income System (GAINS); Income test.

STACKING - Term sometimes used for a pension design in which there is no integration: that is, plan contributions and benefits are not related to those in any government pension program. See Integration.

STEP-RATE INTEGRATION - Provision in a pension plan for different rates of contributions and benefit accrual in respect of an employee's earnings below and above the YMPE (earnings ceiling) of the Canada/Quebec Pension Plan.

STRAIGHT LIFE ANNUITY - An annuity which is payable only during the lifetime of the annuitant; i.e., is not guaranteed to be paid for a minimum period and no part of which is payable to another person after the annuitant's death. See also: Optional form of benefit.

SURVIVING SPOUSE'S PENSION - A monthly benefit payable under a pension plan to the surviving spouse of a deceased employee or pensioner; usually refers to a benefit other than payments under a guaranteed annuity or joint and survivor annuity.

SURVIVOR BENEFIT - Generally, any benefit payable under a pension plan to the surviving spouse or dependent of a plan member who dies before or after retirement. See also: Surviving spouse's pension; Guaranteed annuity; Joint and survivor annuity; Death benefit.

TAX-BACK - Term commonly used for a reduction in amount of a person's income supplement because of income (of the individual or family) from other sources.

TAX CREDIT - Provision for a reduction of income tax payable (not a deduction from taxable income) by an amount of other taxes payable or a portion of housing or other expenses of the taxpayer; e.g., Ontario Tax Credits. Tax credit is said to be "refundable" if it is payable to a person with no taxable income.

TAX-DEDUCTIBLE - Refers to a type or amount of income which may be deducted from a person's total income in computing net or taxable income; e.g., registered pension plan contributions; pension income (up to $1,000 per year). See also: Tax credit.

TAX DEFERRAL - Provision in the Income Tax Act whereby certain pension and similar contributions are tax-deductible and employer contributions and investment income are not included in a member's current taxable income; but benefit payments are considered income for tax purposes in the year in which they are received.

TAX SHELTER - Generally, any savings arrangement entitled to tax deferral and therefore involving the probability that payments when received by the individual will be taxable at a lower rate than would apply in the year the income was first received or credited.

TERM CERTAIN ANNUITY - See Guaranteed annuity.

TERMINAL FUNDING - Method of funding whereby monies required to provide a member's pension are paid into the fund or used to purchase an annuity only at the time of retirement, and not regularly over the period of employment. (This method is not permitted under pension benefits legislation.)

TERMINATION OF EMPLOYMENT - Severance of the employment relationship for any reason other than death or retirement.

TERMINATION RATES - In pension costing, the observed or estimated rate of termination of employment for reasons other than death and retirement.

TRUST AGREEMENT (OR DEED) - An agreement setting out the duties and responsibilities of a trustee or trustees under a pension plan.

TRUSTEED PENSION PLAN - An employment pension plan whose funds are held and invested by trustees, and the plan sponsor is responsible for making sufficient contributions to maintain the plan's solvency. Benefits are not insured except to the extent annuities are purchased (see Split funding).

TURNOVER - See Termination of employment.

TURNOVER RATES - See Termination rates.

UNDERWRITER - Anyone who undertakes to provide future payments (e.g., pensions) in certain specified circumstances, in return for premiums paid by or on behalf of those who may become entitled to benefits; usually refers to an insurance company. See Insured pension plan.

UNFUNDED LIABILITY (UNFUNDED ACTUARIAL LIABILITY) - Generally, any amount by which the assets of a pension plan are less than its liabilities. An initial unfunded liability exists when benefits are created in respect of prior service (e.g.) and not provided for in current service contributions. See also: Experience deficiency; Funding.

UNION PENSION PLAN - Plan sponsored by a trade union; usually refers to a dues-paid plan (see definition) but may mean a plan financed by employer contributions (see Multi-employer plan).

UNISEX MORTALITY TABLE - See Mortality table.

UNIT BENEFIT FORMULA - Any defined benefit formula providing a benefit credit expressed as a percentage of a member's earnings for each year of service. (To be distinguished from flat benefit formula). See: Best earnings formula; Career average formula; Final average formula; Final earnings formula.

UPDATING (BENEFITS) - Term applied to the occasional review and increase of accrued benefits to reflect rising wage levels where the plan does not provide for automatic improvement as in a final average formula.

VALUATION - See Actuarial valuation.

VARIABLE ANNUITY - A pension whose amount varies according to the market value of the fund, usually invested in common stocks. In theory, this feature may compensate the retiree for the effects of inflation.

VESTING - The right of an employee, on termination of employment, to part or all of his or her accrued pension; usually requires locking-in of employee's contributions. Vesting is usually in the form of a deferred annuity commencing at retirement age. Vesting is said to be contingent or conditional if employee has the option of cash withdrawal. Statutory vesting occurs when employee meets the age and/or service conditions set out in pension benefits legislation (in Ontario currently, age 45 and 10 years' service or plan membership) and applies to benefits accrued after a specified date (Jan. 1, 1965 in Ontario). Cash vesting is a return of both employer and employee contributions if not restricted by statutory vesting.

VOLUNTARY ADDITIONAL CONTRIBUTIONS - See Additional voluntary contributions.

WAGE INDEXING - A method of indexing based on movements in average wages and salaries.

WAITING PERIOD - Period of service with an employer before an employee fulfils eligibility requirements for membership in a pension plan.

WIDOW'S PENSION - See Surviving spouse's pension.

WINDING-UP (OR WIND-UP) - See Plan termination.

WITHDRAWAL RATES - See Termination rates.

YEAR'S MAXIMUM PENSIONABLE EARNINGS (YMPE) - Term used in Canada Pension Plan, often referred to as the earnings ceiling: the maximum amount of annual earnings from employment on which CPP contributions and benefits are calculated. YMPE is changed each year according to a formula based on average wage levels.

Index

Volume numbers are in parentheses after the page numbers.